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CALIFORNIA FARM BUREAU FEDERATION

EXECUTIVE OFFICES

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September 23, 1999

Lester Snow, Executive Director
CALFED Bay/Delta Program
1416 Ninth Street, Suite 1155 **(HAND DELIVERED)**
Sacramento, CA 95814
Attention: Rick Breitenbach

The Honorable Bruce Babbitt
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240-9997

The Honorable Mary Nichols
Secretary
The Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Re: Comments on the Draft Programmatic Environmental Impact Statement/Environmental Impact Report

Dear Secretaries Babbitt and Nichols and Director Snow:

The California Farm Bureau Federation (Farm Bureau) is a non-governmental, non-profit, voluntary membership California corporation. The Farm Bureau's purpose is to work for the protection of agriculture and the rural environment in the State of California, and to find solutions to the problems of the farm, the farm home and the rural community within the state. Its members consist of 53 county Farm Bureaus and, through them, more than 40,000 farming and ranching families and 35,000 other interested persons located throughout the State of California who support the preservation of viable agriculture and the quality of life in the State of California and its rural communities.

In response to the release of the Draft Programmatic Environmental Impact Statement / Environmental Impact Report (DPEIS/EIR), dated June 1999, the Farm Bureau offers the following comments and specifically incorporates by reference its previous comments, dated July 1, 1998 and July 1, 1997 (copies attached as **Exhibit A**).

I. INTRODUCTION

The Participation of Farmers and Ranchers in any CALFED Solution is Essential to Shape a California Environment That Includes Them as Beneficiaries Now and in the Future

The Farm Bureau continues to endorse the CALFED Bay-Delta Program Mission Statement, Objectives and Solution Principles, stated in the June 1999 Revised Phase II Report as follows:

> *The mission of the CALFED Bay-Delta Program is to develop a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta system.*

CALFED developed the following objectives for a solution:

- Provide good water quality for all beneficial uses.
- Improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta to support sustainable populations of diverse and valuable plant and animal species.
- Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system.
- Reduce the risk to land use and associated economic activities, water supply, infrastructure and the ecosystem from catastrophic breaching of Delta levees.

In addition, any CALFED solution must satisfy the following **solution principles**:

- **Reduce Conflicts in the System** Solutions will reduce major conflicts among beneficial uses of water.
- **Be Equitable** Solutions will focus on solving problems in all problem areas. Improvements for some problems will not be made without corresponding improvements for other problems.
- **Be Affordable** Solutions will be implementable and maintainable within the foreseeable resources of the Program and stakeholders.
- **Be Durable** Solutions will have political and economic staying power and will sustain the resources they were

designed to protect and enhance.

- **Be Implementable** Solutions will have broad public acceptance and legal feasibility, and will be timely and relatively simple to implement compared with other alternatives.
- **Have No Significant Redirected Impacts** Solutions will not solve problems in the Bay-Delta system by redirecting significant negative impacts, when viewed in their entirety, within the Bay-Delta or to other regions of California.

The Farm Bureau's review of the DPEIS/EIR compels us to conclude that CALFED's Preferred Program Alternative fails to adhere to its mission and conform to these stated objectives and solution principles.

II. BACKGROUND

The CALFED solution-finding process grew out of a document known as the Framework Agreement, signed by the participating agencies in 1994. The purpose of this Agreement was to establish a comprehensive program for coordination and communication between state governmental officials and certain federal governmental officials. The increased coordination and communication among those agencies was intended to lead to a comprehensive plan for environmental protection and water supply dependability in the San Francisco Bay, Sacramento-San Joaquin Delta Estuary and its watershed (Bay-Delta Estuary). CALFED was premised on the policies stated in the Agreement. Importantly, those policies included the following statement:

> **Close coordination** between affected state and federal agencies is desirable to **achieve regulatory consistency and certainty** and provide environmental protection in a manner which **minimizes impacts on the state economy and resources.**

Among the principles endorsed by the participating agencies in the Framework Agreement, it was clear the CALFED process was intended to promote "maximum coordination, communication, and cooperation among the state and federal agencies with interests and responsibilities in the Bay-Delta Estuary within limits of existing law."

This Framework Agreement was the precursor to the Bay-Delta Accord, also signed in 1994, and applicable to the charge given CALFED for finding comprehensive solutions to Bay-Delta concerns. Those historic documents leave no doubt that CALFED's charter, its ongoing function, is limited to facilitating coordination and cooperation among agencies involved in the Bay-Delta solution-finding process. CALFED has no independent existence or authority beyond those agreements.

CALFED, as conceived in those inaugural agreements, has lost its focus. It is desperately prolonging a solution-finding process that has failed to yield benefits equally among the fisheries and wildlife environment, farmers and ranchers, and urban and suburban dwellers. Consequently, after four years of existence, CALFED still was not equipped to prevent the recent crises in urban and agricultural water use caused by the Delta smelt's presence near the state and federal pumps. Four years after its inauguration, CALFED's answer to resolving the myriad water use concerns and planning for a population of more than 50 million people in California is unacceptable. As the Farm Bureau reads the DPEIS/EIR, CALFED's answer is to get rid of agricultural uses, convert as much agricultural land as possible to wetlands habitat, and facilitate urban sprawl through water transfer markets and conjunctive use programs that take little notice of adverse effects on the communities where the water sources originate.

Funding for CALFED programs was endorsed by a broad spectrum of business interests and resulted in the passage of SB 900. SB 900 was approved by the voters in 1996 as Proposition 204. SB 900 enacted the Safe, Clean, Reliable Water Supply Act, to authorize financing of prescribed water programs and bonds in the amount of $995 million dollars. In the Safe, Clean, Reliable Water Supply Act, the Legislature made a number of findings and declarations, among which were included the following:

> (d) The State should plan to meet the water supply needs of all beneficial users of water, including urban, agricultural, and environmental, utilizing a wide range of strategies including water conservation and recycling, conjunctive use of surface and groundwater supplies, water transfers, and improvements in the State's water storage and delivery systems to meet the growing water needs of the State.
>
> (e) This measure is a necessary first step toward providing for the State's long-term water supply requirements through a number of water management strategies. (Water Code § 78500.2.)

The statute goes on to identify CALFED's role in developing a comprehensive and long-term solution to the problems associated with the Bay-Delta, including an "equitable allocation of program costs among beneficiary groups." The Act identified certain objectives that were to be met under the authority of SB 900. Among those objectives were the following:

> (a) To provide a safe, clean, affordable, and sufficient water supply to meet the needs of California residents, farms, and businesses.
>
> (b) To develop lasting water solutions that balance the needs of the State's economy and its environment. (Water Code § 78500.4.)

SB 900 specifically earmarks $390 million dollars to fund eligible projects under the Bay-Delta Ecosystem Restoration Account. There are restrictions on when the funds in that account may be expended. One of the preconditions to expenditures is the completion by CALFED of a Final Programmatic EIS/EIR and certification by the state lead agency with a

Notice of Determination issued under the Public Resources Code. The federal lead agencies also must file an identical Final Programmatic EIS/EIR with the Environmental Protection Agency and must publish the required notice in the Federal Register with necessary federal approval of the identical program approved by the state. The use of funds authorized by SB 900 is predicated specifically on verification by the Secretary of the Resources Agency that the program for eligible projects ensures "balanced solutions in all identified problem areas, including ecosystem restoration, water supply, water quality and system integrity are achieved, consistent with the intent of the Final Programmatic EIS/EIR." (Water Code §§ 78684.6, 78684.10, 78685.12.)

The DPEIS/EIR fails to meet the objectives and requirements set forth in SB 900. Thus, it cannot be used as the basis for approval of expenditure of those funds.

III. DISCUSSION

The CALFED program as presented in the DPEIS/EIR is a plan to develop ecosystem facilities and future water supplies by acquiring and converting agricultural resources. The decision to proceed down this path, rather than seek a balanced approach as required by the Legislature and the voters of California, was a discretionary one made by CALFED without benefit of public disclosure or any alternatives analysis. The state and federal agencies participating in CALFED should not be allowed to hide behind the bureaucratic morass called CALFED and thereby usurp their independent jurisdictional authority and avoid their respective obligations under the state and federal Administrative Procedures Acts.

Both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) require mitigation when a project's direct and cumulative effects will have significant impacts on agricultural resources. NEPA mandates a thorough review of the negative impacts of state action as follows:

> The sweeping policy goals announced in section 101 of NEPA are thus realized through a set of "action-forcing" procedures that require that agencies take a "hard look" at environmental consequences, (cite omitted) and provide for broad dissemination of relevant environmental information. (*Robertson v. Methow Valley Citizens*, 490 U.S. 332, 338 (1989), *citing Kleppe v. Sierra Club*, 442 U.S. 347, 350 (1979).)

When significant impacts are found, a mitigation plan must be developed. Mitigation under NEPA may include any of the following actions:

> (a) Avoiding the impacts by not taking certain actions or parts of an action.
> (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
> (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impacts by replacing or providing substitute resources or environment. (40 CFR § 1508.20 (1987).)

Similarly, the state statute, CEQA, clearly provides the impact of converting "prime farmland, unique farmland, or farmland of statewide importance" to non-agricultural uses must be reviewed, and the negative effects mitigated. (1998 CEQA Guidelines, Appendix G, p. 4.) Conflicts with existing agricultural zoning and Williamson Act contracts must also be reviewed. More specifically, CEQA states the following:

> The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the government agency must respond to the information by one or more of the following methods:
>
> 1. Changing the proposed project.
> 2. Imposing conditions on the approval of the project.
> 3. Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes.
> 4. Choosing an alternative way of meeting the same needs.
> 5. Disapproving the project.
> 6. Finding that changing or altering the project is not feasible.
> 7. Finding that the unavoidable significant environmental damage is acceptable as provided in section 15093. (CEQA Guidelines, 14 CCR § 15002.)

If the program's negative impacts are unavoidable, CEQA requires further substantiation. Section 15093 of the Guidelines reads as follows:

> a. CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
>
> b. When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its actions based upon the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

> c. If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to section 15091. (CEQA Guidelines, 14 CCR § 15093.)

With the aforementioned language in mind, it is clear CALFED must provide a detailed discussion of the impacts of its proposed programs, and mitigate its effects on agricultural resources. The DPEIS/EIR is insufficient both in its review of the problems and its reactions to the proposal's negative aspects.

The June 1999 DPEIS/EIR does not meet the requirements of NEPA or CEQA for disclosure and cannot serve as a basis for meaningful public participation or public agency decision-making. The DPEIS/EIR is merely a *post hoc* rationalization for decisions made by CALFED in the absence of public disclosure and accountability. Most of the CALFED program elements planning documents are tainted by the failure to follow the minimum requirements of CEQA. Therefore, none of the programs, projects, land or water acquisitions, or any other discretionary actions described in the myriad CALFED planning documents may be approved legally by CALFED or any CALFED participating agency until an adequate final programmatic EIS/EIR has been certified.

Agriculture is a vital environmental resource in the State of California. It is part and parcel of seasonal habitat and open space amenities in addition to contributing on-farm revenues of approximately $27 billion to this state's economy. CALFED states in the draft document the following with regard to treatment of agricultural resources:

> It is CALFED Bay-Delta Program (Program) policy that adverse environmental effects on agricultural resources resulting from CALFED's programs, projects and actions will be fully assessed and disclosed under CEQA and avoided or mitigated as required by CEQA. Assessment, disclosure, and avoidance and other mitigation strategies will be developed at the programmatic and project-specific levels in consultation with other state, federal and local agencies with special expertise or authority over agricultural resources which may be affected by the project – such as the California Department of Food and Agriculture and the Department of Conservation. (Main Document at p. 7.1-1.)

These statements by CALFED would be comforting if they were honored in the DPEIS/EIR. In contrast, CALFED goes on to describe a Preferred Program Alternative which, in its own words, would do the following:

> . . . would convert a substantial amount of agricultural lands to other uses, including habitat, levee improvements, and water storage. This conversion would add to the existing state-wide conversion of substantial amounts of agricultural lands to urban uses and other habitat uses, and would conflict with the adopted plans of many local governments. Increased water demand from the Ecosystem

> Restoration Program would reduce water supply reliability to agriculture . . . Mitigation strategies have been developed that could lessen many of the impacts of the program; however, a significant loss of agricultural lands, including some of the state's most productive lands, would occur. (Main Document at p. 7.1-2.)

CALFED then goes on to simply list a number of mitigation strategies that could work to minimize some the significant adverse impacts that would follow from the Preferred Program Alternative. What is most disturbing to the Farm Bureau, however, is CALFED's failure to honor what it states it will do. For example, when describing Stage I actions included in the Ecosystem Restoration Program, the program that will have the most devastating impacts on agricultural resources under CALFED's current plan, CALFED states the following:

> The general priorities for restoration activities will be first on existing public lands as appropriate, second to work with landowners in voluntary efforts to achieve habitat goals including the acquisition of easements, third a combination of fee and easement acquisition, and fourth an acquisition of fee title as necessary to achieve Program objectives. Acquisition will be on a willing seller basis and with emphasis on local coordination and partnership and include appropriate mitigation for agricultural resource impacts. The intent is to maximize habitat benefits while minimizing land use impacts. (Revised Phase II Report at p. 119.)

Prior to issuance of this DPEIS/EIR, CALFED funded the conversion of at least 33,877 acres of agricultural land to habitat. Of this total, only 6,019 acres has been identified as involving existing habitat or restoration of public lands or existing degraded habitat. It appears CALFED intends to honor its commitments to agriculture more in the breach.

Even more disturbing than CALFED's intended conversion of agricultural lands to habitat, which we conservatively calculate at up to 1,056,178 acres[1], is the intended conversion of agricultural water resources. It appears the amount of water that will be removed from agricultural use and devoted to habitat and fisheries uses ranges from 186,905 acre-feet to 402,891 acre-feet. These estimates, however, do not include all in-stream flows because they were not quantified in the DPEIS/EIR, and do not adequately account for increased use in acre-feet per acre of wetlands habitat developed.

The mitigation of the loss of the agricultural environment as required by law is lightly set aside in the CALFED DPEIS/EIR as a matter for future, indeterminate levels of consideration. Farmers and ranchers find it difficult to believe in CALFED's sincerity and commitment to both the continued viability of farming and the need to avoid or mitigate losses of agricultural land when we find CALFED already, prior to publishing this DPEIS/EIR, funded, approved or acquired agricultural lands and water rights for conversion on at least 41 ecosystem restoration projects.[2] These projects are proceeding with minimal public notice and the inadequate environmental review that has been a hallmark of the CALFED-funded agricultural land

[1] See Tables, attached as **Exhibit B**.
[2] See Tables, attached as **Exhibit C**.

acquisitions for the program thus far. It is abundantly clear that any one of these projects, either individually or cumulatively, will have a significant effect on the environment.

Under NEPA, as well as CEQA, CALFED's acquisitions of agricultural resources for conversion to non-agricultural uses is subject to site-specific review at the Environmental Impact Statement level as soon as identifiable locations have been formally proposed. Because CALFED's actions include a series of projects that will implement a broader program, environmental review resulting in, at a minimum, an Environmental Assessment is required for each acquisition. CALFED has failed to meet these legal requirements.

The Farm Bureau, as a member of the Agricultural Water Caucus, an informal coalition of agricultural production organizations, water suppliers and users throughout California, previously made known to CALFED its position on the solution-finding process. The general position taken was stated as follows:

> The CALFED Bay-Delta Program must recognize existing agricultural surface and groundwater rights and area of origin rights, as well as existing contractual obligations of the state and federal government. New water demands (for urban growth and environmental uses) must look to newly developed water supplies. The Ag Water Caucus strongly objects to any effort to require agricultural water users to pay any additional costs to replace water taken for environmental uses through regulatory actions, or for replacing water dedicated to environmental protection by legislative actions and the Bay-Delta Accord.
>
> A primary benefit of the CALFED program for agriculture is the development of an adequate, affordable and reliable water supply. Water supply reliability must be defined as the timely delivery of water adequate to sustain crops. The Ag Water Caucus does not accept a position of certain stakeholders that "less water delivered more often" is consistent with the CALFED solution principles.
>
> The Ag Water Caucus strongly supports near-term incremental implementation of the CALFED program, with early investments in system capacity where there is a potential for significant benefit to both water users and the environment.

The Agricultural Water Caucus Position Paper goes on to describe briefly the specific actions that CALFED should take to meet the needs of agricultural users and address their ongoing concerns with the overall solution-finding process. We hereby specifically incorporate by reference that document as part of our comments (copy attached as **Exhibit D**). CALFED cannot claim it values stakeholder participation in the solution-finding process when the

DPEIS/EIR clearly and consistently ignores all of the input from agricultural stakeholders provided to date.

To be blunt, CALFED's Preferred Program Alternative is a disaster for farmers and ranchers. We have every reason to continue to take our chances with the existing conditions because the threats to ongoing agricultural viability and the need to address environmental regulatory constraints is neither mitigated nor streamlined by the process outlined in any of CALFED's proposed solutions.

Farmers and ranchers have definite constructive ideas regarding how to address the resource allocation issues that must be met inevitably with the increasing population of this state. We herein detail these ideas as well as the following observations:

A. Demise of Agriculture Not an Unavoidable Impact of CALFED Program

The DPEIS/EIR pays lip service to the identification of agricultural resources as part of the existing environment, but the document fails to provide the necessary description of that environment. For example, the DPEIS/EIR fails to describe and discuss key issues like the acreage served; the sources, quantity, location and timing of agricultural water supplies and demands; climatic and hydrologic variations among Central Valley watersheds; soil conditions and drainage quality in various regions, to cite just a few. Further, CALFED makes no attempt to even acknowledge, much less tailor its programs to support existing conservation projects already undertaken by farmers and ranchers.[3]

The consideration of agricultural resources as an important part of the environment is not an academic exercise. A complete and adequate analysis is important for several reasons. First and foremost, both NEPA and CEQA require CALFED to consider alternatives that will have less impact on the environment, including agricultural resources. This applies to both the common programs and the variable components. It has generally been recognized that the alternatives analysis is the "heart" of the environmental review process and is, therefore, the key to meaningful environmental review. With respect to land, CALFED must pursue options that do not adversely affect agricultural land resources. As an example, there are non-agricultural lands that can be used for many of the CALFED programs. With respect to water, there are other components in the CALFED process that, if implemented properly, will reduce the demand on agricultural water resources. Most notably, environmentally sensitive surface storage is an option that must be pursued to avoid impacts on agricultural resources. Alternatives to reduce the impacts on agricultural resources, particularly within the common programs, must be seriously pursued by CALFED in this programmatic review as well as any site-specific environmental review.

[3] *Farmers and Ranchers Commitment to Conservation*, California Farm Bureau Federation. (Copy attached as **Exhibit E.**)

Further, if no feasible alternatives are available to protect agricultural resources, appropriate mitigation measures must be adopted with respect to both agricultural land and water. Although the mitigation measures briefly listed in chapter 7 (at pp. 7.1-2 and 7.1-3) of the DPEIS/EIR suggest CALFED at least considered in passing agricultural resources, a mitigation protocol must be developed and the mitigation needs to be pursued in fact, not just in theory. Moreover, CALFED must promote and facilitate thoughts and actions among its participating agencies so that any impacts on agricultural resources resulting from their independent actions can be fully mitigated to maintain viable agriculture throughout California.

The analysis of impacts on agricultural resources has important implications beyond the environmental review process. This analysis will serve as a litmus test for determining whether CALFED has satisfied its solution principles. For example, if CALFED pursues alternatives within its program that do not affect agricultural resources, the solution principles for redirected impacts clearly will be satisfied in this regard. On the other hand, if CALFED continues down the current path and massively redirects agricultural resources, as proposed in the DPEIS/EIR, the solution principles clearly will not be satisfied. Put differently, because CALFED in its DPEIS/EIR indicates there are potentially significant and unavoidable adverse impacts on agricultural resources, the solution principle for no significant redirected impacts by definition cannot be satisfied. (See DPEIS/EIR at p. 7.1-32.)

With respect to agricultural resources, the fundamental test of the soundness of CALFED's proposed action as embodied in the Preferred Program Alternative is whether this action will sustain the long-term productivity of the state's agriculture by conserving and protecting the soil, water and air that are agriculture's basic resources. Further, CEQA requires that any adverse environmental effects be fully assessed and disclosed, and avoided or mitigated as required. Also, as the courts have interpreted NEPA, there is a rule of reason that asks whether an EIS contains a reasonably thorough discussion of the significant aspects of the probable environmental consequences. The key issue in this analysis is whether the EIS's form, content, and preparation fostered both informed decision-making and informed public participation. The EIS/EIR is inadequate if it does not reasonably set forth information sufficient to enable the decision maker to consider the environmental factors and make a reasoned decision.

In the Main Document, CALFED attempts to justify its Programmatic Impacts Analysis by stating, "This level of analysis is consistent with the guidance for programmatic documents provided by . . . the CEQA Guidelines." On the contrary, this document fails to satisfy the purposes of a programmatic EIR, particularly regarding its treatment of program alternatives and strategies that would reduce, avoid and mitigate adverse impacts to the existing agricultural environment. (DPEIS/EIR Preface at pp. iii – iv.)

Although the DPEIS/EIR is 4,250 pages long, it is sadly lacking in key details. More specifically, at least three key programs that will directly affect agricultural resources are discussed only generally and vaguely in the DPEIS/EIR. For example, neither the Water Transfers Program Plan nor the Integrated Storage Investigation have been completed; rather, they are slated for completion prior to adoption of the Record of Decision. The Farm Bureau

questions how it is the public can provide meaningful input on the DPEIS/EIR without this kind of key information. Moreover, how can CALFED be assured that its Preferred Program Alternative is the correct choice without the key details on these programs and others? In addition, the CALFED Financing Plan is not slated for completion until the time of the Record of Decision. There is no way for farmers and ranchers to evaluate and provide input on the reasonableness and potential impacts of financing such things as water conservation measures that are technologically driven, fish screens, and watershed protection activities, among other things, without disclosure of CALFED's plan for costs sharing the many aspects of the CALFED program.

Among the key details that are lacking in the DPEIS/EIR is an adequate discussion of cumulatiave impacts. According to CEQA Guidelines, "An EIR must discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable...."[4] A cumulative impact is, "...an impact which was created as a result of the combination of projects evaluated in the EIR together with other projects causing related impacts..."[5]. "Cumulatively considerable means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects...."[6] In light of this, all land acquisition/habitat restoration projects within the CALFED program areas clearly fall within the appropriate scope of the DPEIS/EIR's cumulative impact analysis.

The projects that already are being funded by the CALFED program are a part of the "combination of projects [*that should have been*] evaluated in the EIR."[7] The impacts of these projects must be considered in light of the effects of "past projects, the effects of current projects, and the effects of future projects" that are not funded by, or do not otherwise implement, the CALFED program.

Even if CALFED claims the projects it funds are not a part of this programmatic plan, the impacts of these projects must be included in the cumulative impacts analysis since the impacts are related.

At a minimum, the CALFED projects that already have been completed must be identified and evaluated as a part of the cumulative impacts section. At the same time, the projects that will occur in the future must be tiered, and all currently identifiable projects must be included within the cumulative impacts analysis. Anything short of full inclusion and review of all CALFED programs, and all related non-CALFED programs, is completely contrary to the purpose and intent of CEQA.

Maureen Gorsen, who was the General Counsel at the California Resources Agency during the latest revisions of the CEQA Guidelines, acknowledged the fragmentation of larger projects into smaller project-by-project analyses has plagued the CEQA process throughout its

[4] 14 CCR § 15130
[5] 14 CCR § 15130(a)
[6] 14 CCR § 15065(c)
[7] 14 CCR §15378(a)(2)

history, thus diminishing its effectiveness[8]. Specifically, she recognized The California Policy Seminar Report, which stated the following:

> If there is one thing upon which everyone who has studied CEQA agrees, it is that effective large-scale impact mitigation cannot be undertaken on a piecemeal or project-by-project basis. Although the CEQA Guidelines have been broadened to require the identification of cumulative impacts, none of the communities we examined has been able effectively to mitigate cumulative impacts. The difficulties inherent in cumulative impact assessment are not just analytical. Mitigations that represent the best practice at the project level may actually be counterproductive at the community or regional level. CEQA's emphasis on project-by-project reviews, and its resulting inability to promote cumulative impacts mitigation and environmental enhancement, ***is its single biggest failure***.[9]"

In order to address the piecemeal project-by-project issue, the 1998 CEQA Guidelines revisions included provisions to "encourage broader regional planning to avoid and/or mitigate cumulative impacts[10]."

The CEQA Guidelines provide guidance as to what constitutes an adequate discussion of cumulative impacts as follows:

> The following elements are necessary to an adequate discussion of significant cumulative impacts:
> (1) Either:
> (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; or
> (B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the agency.[11]

Further, the Guidelines state:

> Probable future projects may be limited to those projects requiring an agency approval for an application which has been received at the time the notice of preparation is released, unless abandoned by the applicant; projects included in an adopted capital

[8] 1998 CEQA Guidelines Revisions, *What Every Practitioner Needs to Know*, by Maureen Gorsen, October 1998.
[9] Id. at p. 6, emphasis added.
[10] Id. at p. 7.
[11] 14 CCR § 15130(b)(1)(A) & (B.)

> improvements program, general plan, regional transportation plan, or other similar plan; projects included in a summary of projections of projects (or development areas designated) in a general plan or area plan or a similar plan; projects anticipated as later phase of a previously approved project (e.g. a subdivision); **or those public agency projects for which money has been budgeted.**[12]

What the CEQA Guidelines make clear is the impacts of related projects that have been granted funding or approval through CALFED or through any of the individual agencies that participate as part of CALFED, but who are acting independently, local government projects and private projects that are subject to governmental approval or that have accepted governmental funding must be addressed in the DPEIS/EIR's cumulative impacts analysis.

There are a number of state and federal projects currently under way or funded for future completion that will have a significant effect on agricultural resources. CALFED simply lists some of these programs and states, rather simplistically, that "Mitigation strategies are available to reduce the severity of cumulative impacts. The mitigation strategies generally consist of safeguards by law, regulations, and water rights standards; contracts; physical measures; and water management programs . . . Any action-specific mitigation will be identified in subsequent tiered, site-and action-specific analyses." (*See* DPEIS/EIR at p. 3-7.) CALFED thus wrongfully seeks to delay a decision it must make now.

Environmental degradation caused by cumulative effects has been described as "the tyranny of small decisions." The cumulative effects of various on-going and planned activities are readily apparent now. These effects need to be analyzed adequately at the programmatic level of review. Since the CALFED program is envisioned for implementation over at least a 30-year period, this is the relevant timeframe for evaluating cumulative effects. CALFED needs to develop a cumulative impacts assessment protocol and a mitigation protocol for all potentially significant adverse impacts on agricultural resources.

A few of these types of impacts are identified in the DPEIS/EIR as follows:

1. Preferred Program Alternative
   Potentially Significant Adverse Impact

   · Water Supply and Water Management – temporary local water supply interruptions due to turbidity of water during construction of facilities and habitat restoration activities

   · Groundwater Resources – increased groundwater extractions in the Sacramento Valley, and, to a lesser extent the San Joaquin Valley, resulting in land subsidence, lower groundwater levels, and higher pumping costs; degradation of groundwater quality; or loss of existing

[12] 14 CCR § 15130(b)(1)(B)(2), emphasis added.

wells.

· Geology and Soils – increases in agricultural land soil conversion, local subsidence, soil erosion and soil salinity, construction related short-term soil erosion, and sediment deposition or soil compaction from heavy equipment. Changes to geomorphology downstream of surface water storage facilities. Ground disturbance, inundation, and shoreline wind and wave erosion.

· Fisheries and Aquatic Ecosystems – increased non-native species abundance distribution.

·Vegetation and Wildlife – loss of incidental wetlands and riparian habitats that depend on agricultural water use in-efficiencies.

· Agricultural Land and Water Use – conversion of prime, important, and unique farmland; conflicts with local government land use policies; conflicts with adjacent land uses.

2. Program-Induced Growth Impacts Associated with the Preferred Program Alternative

   · Potential Adverse Effects on Agricultural Resources With Respect to Water Supply and Water Management

   · Potential Adverse Effects on Agricultural Resources With Respect to Groundwater

   · Potential Adverse Effects on Agricultural Resources With Respect to Geology and Soil

   · Potential Adverse Effects on Agricultural Resources With Respect to Vegetation and Wildlife

   · Potential Adverse Effects on Agricultural Resources With Respect to Land and Water Use

3. Irreversible and Irretrievable Commitments of Resources Associated with the Preferred Program Alternative

   · Water Supply and Water Management – displacement of water supplies from one region or use to another region or use.

· Groundwater Resources – long-term degradation from over-draft, subsidence, and contamination.

· Geology and Soils – Ground disturbance, inundation, and changes to downstream geomorphology. Commitment of construction materials and land conversion.

· Vegetation and Wildlife – habitat losses from construction activities, changes in habitat type.

· Agricultural Land and Water Use – conversion of agricultural land to other uses.

4. Summary of Potentially Significant Adverse Cumulative Impacts

· Water Supply and Water Management Throughout the Entire Program Region

· Water Quality Impacts Throughout the Entire Program Region

· Impact on Groundwater Resources Throughout the Entire Program Region

· Impact on Geology and Soils in All Program Areas Except SWP and CVP Service Areas

· Vegetation and Wildlife Impacts in All Program Areas Except SWP and CVP Service Areas

· Impact on Agricultural Land and Water Use in the Delta, the Sacramento River and the San Joaquin River Program Regions

These are simply recitations of the potential adverse impacts that CALFED has identified in the DPEIS/EIR.[13] The Farm Bureau does not agree that these are all of the impacts with which CALFED must concern itself in order to produce an adequate analysis of its proposed actions and a legally sufficient cumulative impacts analysis and mitigation plan.

Along these lines, we offer the following general comments prior to discussion of our more specific concerns:

[13] Main Document, Tables 3-3, 3-5, 3-7 and 3-8.

1. CALFED has prepared a DPEIS/EIR that does not consider a range of alternatives capable of achieving the fundamental goal of CEQA, that is, to avoid, reduce, or mitigate the impacts identified during scoping. None of the alternatives considered in the DPEIS/EIR vary in any meaningful way in their potential to significantly impact elements of the existing environment utilized for agriculture. The Alternatives Matrix at the end of the Main Document highlights this deficiency explicitly. None of the Program elements vary among alternatives except for certain features of the conveyance elements. This approach to alternatives development and analysis within the DPEIS/EIS is contrary to and does not address the purposes of a programmatic document under CEQA. The preferred method of dealing with potential impacts is to avoid them through a reasonable range of alternatives. The purpose of an EIR is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. (Pub. Res. Code § 21002.1(a).) CEQA goes on to state that EIRs shall emphasize feasible mitigation measures and alternatives to projects. (Pub. Res. Code § 21003(c).) For the purposes of CEQA, "feasible" is defined in section 15364 of the Guidelines as, "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." Further, the CEQA Guidelines state that the major advantage of a programmatic EIR is to allow for consideration of broad policy alternatives and program-wide mitigation measures at an early time. The primary use of a programmatic document is to incorporate feasible mitigation measures and alternatives into subsequent program actions. (14 CCR § 15168.)

2. CEQA requires that CALFED develop mitigation measures for unavoidable impacts. In contrast to the highly developed details in the Ecosystem Restoration Program Plan, CALFED has done nothing to present meaningful mitigation measures for impacts to elements of the existing environment utilized for agriculture. CALFED's failure to develop, disclose, and commit to implement mitigation for the already identified adverse impacts on the existing environment that will result from implementation of the ERPP is a fundamental flaw of the DPEIS/EIR.

3. CALFED must consider in the DPEIS/EIR the whole of its actions under CEQA. CALFED has divided its proposed programs into Common Programs and Variable Programs. Under the Common Programs, CALFED lists the Long-term Levee Protection Plan, Water Quality Program, Ecosystem Restoration Program, Water Use Efficiency, Water Transfer Policy, and Watershed Management Coordination. Under CALFED's Variable Programs are listed Storage and Conveyance. No explanation is given in the DPEIS/EIR for separating these programs most directly applicable to water supply reliability, i.e., storage and conveyance, from the other program elements. CALFED must develop an appropriate level of detail for all of the so-called Common and Variable Programs in order to evaluate the whole of its actions.

4. CEQA requires that CALFED develop a degree of specificity in the DPEIS/EIR that corresponds to the degree of specificity involved in the underlying activity described in the DPEIS/EIR. Where CALFED has developed highly detailed plans for elements of a proposed program, it has still failed to provide more than general treatment of the existing environment,

cumulative impacts, alternatives capable of reducing or avoiding impacts, and mitigation measures; any analysis of mitigation is erroneously deferred to subsequent tiers of projects.

5. The CALFED DPEIS/EIR does not meet the requirements of SB 900 that would qualify the program for certain funding under the statute.

6. CALFED is clearly proposing actions that would acquire and change the places and purposes of use of large volumes of water. Many CALFED actions will increase water use as well. Specifically, actions identified in the Ecosystem Restoration Program Plan (ERPP) that would result in conversion of irrigated farm land to wetlands would more than likely result in significant changes in the volume and timing of water demands over the existing environmental conditions. This significant impact is only treated in passing in the DPEIS/EIR as a subject of scientific dispute about the amount of water used for wetlands. This is appalling considering the need to address water supply reliability as an important element of the CALFED program.

7. There is no meaningful treatment in the DPEIS/EIR of the policy decision to acquire existing developed water resources rather than look at alternative means of achieving CALFED restoration program goals. There is no meaningful treatment of the environmental consequences of this policy decision or any alternatives.

8. The DPEIS/EIR should be structured to do the following:

• To provide an occasion for more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action. CALFED, however, has chosen to prepare an EIR that presents no discernable differences among the various alternatives with respect to their potential for significant adverse impacts on elements of the existing environment utilized for agriculture.

• To ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis. CALFED, however, chose to prepare an EIR that defers all mitigation for impacts to agricultural resources to subsequent tiers of CEQA review, where cumulative effects will be difficult to identify and likely impossible to mitigate.

• To allow the lead agency to consider broad policy alternatives and program-wide mitigation measures. CALFED, however, chose to prepare an EIR that does not have broad policy alternatives that differ in any meaningful way with respect to the impacts to agricultural resources. CALFED improperly deferred consideration of avoidance and mitigation of impacts to agricultural resources to subsequent, site-specific projects where there are unlikely to be feasible alternatives or program-wide mitigation measures.

9. By not considering alternatives capable of reducing impacts on the existing environment, and by not considering mitigation measures in the same level of specificity as the underlying programs proposed, CALFED failed to produce a document that enables the public and decision makers to consider the full costs and consequences of the proposed action. Under CEQA, one of the purposes of both alternatives and mitigation measures is to define and disclose

the true costs, both financial and environmental, of a proposal. CALFED failed to produce a document that accomplishes this fundamental goal.

10. CEQA requires an EIR to focus on the significant effects on the environment. The DPEIS/EIR and, indeed, the entire CALFED planning process, have instead focused on a limited subset of the objectives of the program. This is perhaps best demonstrated by the extremely detailed planning documents prepared for the ERPP, prior to any consideration of impacts on the existing environment and wholly without alternatives analysis. Throughout the DEPIS/EIR there is an unstated premise that goals of a limited subset of program elements somehow obviate the clear need to comply with requirements of law.

11. CEQA requires that an EIR include discussions of any inconsistencies between the proposed project and applicable general plans and regional plans. The analysis must examine the existing physical conditions as well as the potential future conditions discussed in the plans. The CALFED DPEIS/EIR does not have any such analysis. In fact, the CALFED program was planned prior to any consideration or analysis of adopted plans.

12. The DPEIS/EIR must consider all phases of a project when evaluating its impact on the environment. The proposed massive redirection of land use from the existing environmental conditions (predominantly irrigated agriculture) to predominantly engineered civil works designed to be operated as managed wetlands will have large impacts on future water use. The DPEIS/EIR provides no disclosure or analysis of the impacts associated with the operation of the proposed works.

13. The DPEIS/EIR is required to have a discussion of areas of disagreements among experts. There is substantial disagreement among experts as to the efficacy of constructing habitat and restricting diversions of water to reverse the decline of species in the Bay-Delta system, in particular aquatic species. The reasons for the decline of aquatic species in the system are not known. As was pointed out by members of the CALFED Science Review Panel, among others, the decline may well be due more to the massive invasion of the system by exotic species during the past 25 years than to loss of habitat. This is reinforced by the fact that the habitat losses to agricultural use occurred many decades prior to the decline of recently listed species. Thus, it is possible the huge cost and significant impacts of the proposed program may be wasted. Even worse, the new habitat may simply enhance the populations of exotic species to the detriment of listed species. Consider, for example that over 90 percent of the biomass of planktonic life in the Bay-Delta system consists of species that were not present in the system 25 years ago. The decline of resident listed species could well be due to tropic effects within the ecosystem. As another example, the striped bass (an exotic species) is probably responsible for more losses of out-migrating salmon than any other factor, including water diversions from the system. An unlimited commercial and sport striped bass fishery might well do more to enhance salmon and steelhead runs than all of the extraordinary, expensive and environmentally damaging measures CALFED has proposed in the ERPP. Without this basic information, it is impossible for the public and decision-makers to be adequately informed.

14. CEQA requires that the DPEIS/EIR describe the existing environment in order to provide an understanding of the significant effects of the proposed project and the alternatives. There are several areas where the treatment of the existing environment is inadequate. There are inadequate data on the populations of species and suites of species that CALFED is taking actions to enhance. In particular, there are no data on recent trends of these species.

- During the past decade, in particular, there have been massive public and private expenditures and redirection of agricultural land and water resources to enhance waterfowl and fish, especially anadromous fish. The extent to which the populations of these species have benefited from these efforts must be disclosed in the DPEIS/EIR.

- Nowhere in the DPEIS/EIR is there a complete discussion of the factors that cause losses to resident and anadromous fish in the CALFED study area. A significant omission is disclosure of predation effects, with quantitative disclosure of species responsible. CALFED chose to exclude predator control as a program element, and focused instead on very expensive and environmentally damaging alternatives.

- It appears CALFED has focused the agricultural land acquisition and redirection elements of the program on those lands with the most reliable, least cost, and highest quality water resources, and the best soils. Nowhere in the DPEIS/EIR are these fundamental aspects of the existing environment described in meaningful detail. This is essential for an understanding of both the true impacts of the program and the appropriate level of mitigation.

15. The courts have found piecemeal approval of projects improper. CALFED has engaged in piecemeal approval of program elements with individually and cumulatively significant impacts on agricultural resources. Specifically, CALFED has made discretionary decisions to approve funding to acquire and convert the use of agricultural land and water prior to completion of the programmatic EIR. The DPEIS/EIR must include an enumeration of all discretionary approvals made by CALFED and its participating agencies, since issuance of the Notice of Preparation for the programmatic EIR, that have a potential to impact agricultural resources. This includes approval of funding to other entities. This also must include a description of the CEQA compliance processes undertaken by CALFED and any other entities involved.

16. CEQA requires that the DPEIS/EIR have some basis for statements and assertions. The DPEIS/EIR is totally devoid of citation or support for many of the fundamental assertions in the document. The DPEIS/EIR is especially devoid of any scientific basis for the fundamental approach of converting of agricultural resources to achieve stated program goals.

17. One of the stated goals of the program is to reduce conflicts within the system. The CALFED approach to this is curious: With no treatment of alternatives, cumulative impacts, or mitigation, CALFED apparently determined to execute an unprecedented grab of natural resources from agricultural uses and appropriate them to other uses. Not only will this action dramatically exacerbate the conflicts in the system, but the total silence of the DPEIS/EIR on this fundamental discretionary decision poisons the entire CALFED planning effort. It is difficult to

envision how this flaw can be rectified without completely starting over, and as CEQA requires, incorporating protection of the environment and CEQA compliance into the process at the earliest stages of planning.

In the Main Document portion of the DPEIS/EIR, we have identified the following specific flaws:

Chapter 1 – Project Description

P. 1-24 – Category III. "Actions funded through the Restoration Coordination Program must have appropriate environmental documentation, result in no potentially significant cumulative impacts, and must not limit the choice of a reasonable range of alternatives." The actions of CALFED in selecting, approving and implementing projects under this program for conversion to habitat are wholly inconsistent with this statement. These projects do cause significant environmental impacts as defined by CEQA and do result in significant cumulative impacts and may limit the choice of a reasonable range of alternatives. As yet, none of these projects has had appropriate environmental documentation prepared. The DPEIS/EIR must include a specific policy as to how agricultural resources mitigation will be implemented, guidelines that describe appropriate environmental documentation, and how cumulative impacts to agricultural resources will be addressed.

Chapter 2 – Alternative Descriptions

P. 2-25 – Conveyance alternative 3F: The "chain of lakes" configuration was discarded due to various land use, water quality and cost impacts. However, a similar feature is included in the storage component and in the context of the Environmental Water Account and in the Revised Phase II Report on page 91. Is Delta island surface storage included in the CALFED Preferred Program Alternative? If so, to what extent? If so, the land area affected (Table 4-3 on page 4-13) does not seem to include the potential impacts. Nor does table 4-4 on page 4-5 where up to 15,000 acres is identified under the Preferred Program Alternative storage component. This potential impact, if part of the Preferred Program Alternative, needs to be fully discussed in the DPEIS/EIR.

Chapter 3 – Summary Comparison of Environmental Consequences

P. 3-2 – 3.1.3 Summary of Potentially Significant Adverse Environmental Impacts – This approach to mitigation is wholly inadequate under CEQA. The preferred method of dealing with potential impacts is to avoid them through a reasonable range of alternatives. A primary use of a PEIS/EIR is to incorporate feasible mitigation measures and alternatives into subsequent program actions. (14 CCR § 15168.)

Mitigation is defined identically under NEPA and CEQA. (*See* 40 CFR § 1508.20 (1987) and 14 CCR § 15370.) It includes avoidance by not taking certain actions, minimization by limiting the degree or magnitude of an action, rectification through repairing or restoring

impacted environments, reduction or elimination of impacts over time, and/or compensation by replacing or providing substitute resources or environments.

CEQA also requires that a discussion of mitigation measures shall distinguish between the measures that are proposed by project proponents to be included in the project and other measures that are not included but could reasonably be expected to reduce adverse impacts. The Guidelines go on to state, "Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified if one has been selected." (14 CCR § 15126(c).)

Since the program will have significant impacts, any future project initiated under the DPEIS/EIR, or pursued by any CALFED participating agency, with any impact on agriculture must be considered to have a significant impact on the environment. There are a number of reasons for this, but two examples will suffice for now. First, any site-specific project with any impacts on agriculture contributes to the cumulatively significant impacts of the program. Second, under CEQA it is improper to split a program into small parts that by themselves may not have significant impacts and deal with these in isolation.

P. 3-3 – 3.1.4 Summary of Economic and Social Effects and Table 3-4 – Beneficial impacts to agricultural economics and social issues are claimed but not substantiated. Please provide the qualitative methods used and state whose professional judgment was used to make these claims. Are these claims consistent with those from the agricultural community whose professional judgment indicates an overall adverse impact from the Preferred Program Alternative? Please explain the discrepancy of professional opinion and this area of controversy.

P. 3-3 – 3.2 Summary of growth-inducing impacts – This section states, "it was assumed that any increased water supplies or increased water supply reliability associated with the Program would stimulate growth . . ." This may be a false assumption for regions of the Solution Area where agricultural water supplies are chronically short of existing demand. Please refer to the Mark Reisner report for the American Farmland Trust dated September 1997, Water Policy and Farmland Protection. Improving water supply reliability to agricultural lands will improve the likelihood that agricultural lands will remain in agricultural production and not be sold for urban development.

Table 3-1 – Summary Comparison of Environmental Consequences – p. 3-14 – Agricultural Land and Water Use: The No Action Alternative also should indicate that water supply reliability probably would decline under this alternative.

P. 3-21, Table 3-2 Summary of Beneficial Impacts – The beneficial impacts to agricultural land and water use are highly speculative and, while asserted in various places in the document, are wholly unsubstantiated.

P. 3-24, Table 3-3 Summary of Potentially Significant Adverse Impacts – Significant reductions of agricultural water supplies may result from CALFED actions (ERPP, EWA, water transfers, etc.) This impact should be identified in bold in the table. For example, CALFED

states on page 5.1-71, "Potential long-term adverse effects on specific regional agricultural and urban water supplies could result from increased water transfers." Also, it is likely that changes in purpose and place of use of agricultural water supplies will result from CALFED actions. This is a potentially significant adverse impact that must be added to this list.

P.3-27, Table 3-7 Summary of Irreversible and Irretrievable Commitment of Resources – Agricultural Water as well as land should be identified in this table.

P. 3-28, Table 3-8 Summary of Potentially Significant Adverse Cumulative Impacts – All regions should be identified for agricultural land and water use impacts. While land use impacts may not result in the Bay and other service areas, agricultural water supply impacts may in fact result, and as such they should be identified.

Chapter 4 – Guide to Impact Analysis and Description of Land Use Assumptions

P. 4-6 Cumulative Impacts – Please refer to general comments, above.

P. 4-7 and 4-8 (fifth bullet) – Mitigation Strategies – This discussion of mitigation strategies is wholly inadequate. Please refer to general comments, above.

P. 4-9 – The second paragraph in section 4.3 states, "Although impacts in the range of these acreage estimates are possible, the affected acreage likely would be considerably less because these estimates do not include reductions in the land use changes that could take place based on measures that may be implemented in Phase III to avoid, minimize, or mitigate these changes." There is no assurance that such measures will be implemented. Assurances in the form of an agricultural resources mitigation policy are needed in the PEIS/R by the time of the Record of Decision/Notice of Determination. Many actions have already taken place under the Category III Early Implementation Program with no environmental documentation, and thus no mitigation. Other projects have had inadequate documentation prepared, resulting in legal action against the lead agencies.

P. 4-11 – The inadequate discussion of steps to reduce farmland impacts is cited below with comments.

The Program would take a variety of steps to reduce effects on farmland, including:

- Implementation of the Ecosystem Restoration Program would occur over many years. The implementation process would include extensive local community, landowner and stakeholder involvement. *This action is laudable, but is not mitigation.*
- Habitat restoration efforts would focus first on developing habitat on public land where appropriate. *The qualifier "where appropriate" can provide full discretion to CALFED agencies to acquire land without any accountability. A process under CALFED to determine appropriateness that includes strong agricultural representation is needed.*
- If no public land is available, restoration efforts would focus next on land acquired from willing sellers and that provides substantial benefits for ecological processes, habitat, or

species. *This is not mitigation and does not reduce associated impacts due to reallocation of agricultural resources.*

- Where small parcels of land are needed for waterside habitat, acquisition efforts would seek out points of land on islands where the ratio of levee miles to acres farmed is high. *This is not mitigation, and in fact would likely result in cumulative impacts that must be mitigated.*
- The Program would obtain easements on existing farmland that would allow for minor changes in agricultural practices, thus increasing the value of the crops to wildlife. *This strategy could reduce impacts, but may also result in impacts that may require mitigation (in addition to landowner compensation).*
- Where possible, floodplain restoration efforts would include provisions for continued agricultural practices, which would be renewed on an annual basis. *This action may or may not result in impacts to agricultural land. The qualifier "where possible" again gives CALFED agencies unbridled discretion. See comment to second bullet, above.*

P. 4-3 – Table 4-3 – Estimates of land Area Affected by Storage and Conveyance – This table shows a range of 0-15,000 acres of land affected in the Delta. This range indicates that in-Delta storage may convert 30,000 acres or more of prime agricultural land in the Delta is not included in the range of alternatives. However, the Phase II Report on page 91 lists the potential of 230 thousand acre-feet on in-Delta storage as being under consideration. This inconsistency needs to be rectified.

P. 4-14 – Mitigation necessary to offset impacts on wildlife as a result of implementing the levee system integrity, water quality, conveyance, and storage elements may affect additional agricultural lands. There is no equal treatment of different features of the environment when the need for mitigation is discussed. Here CALFED recognizes that mitigation for impacts to wildlife habitat resulting from other CALFED actions to enhance wildlife habitat may adversely impact additional agricultural lands, but nowhere does CALFED recognize in a similar fashion the existing agricultural environment must be treated similarly under CEQA.

Chapter 5 – Physical Environment

The treatment of water supply issues in section 5.1 is wholly inadequate. There is no meaningful discussion of the affected environment and existing conditions and, therefore, no way to determine impacts relative to water supply reliability resulting from CALFED actions in the Preferred Program Alternative. In Chapter 6 of the March 1998 draft there was a reasonable through inconsistent discussion of water supply sources for each region (local surface water, groundwater, CVP, SWP). This meaningful information is nowhere to be found in the current DPEIS/EIR. This important information needs to be included in the document in a consistent manner that uses normalized 1995 year data for the existing environment discussion. The discussion of each river in each region provides no useful information. The discussion of agricultural water supplies by region in the existing environment section of Chapter 7 is useful, but is in need of revision still. Please see comments below (p. 7.1-6 – Table 7.1-3 and applicable sections on agricultural water use). The reader should at least be referred to this section of the document.

P. 5.1-3, 5.1.2 – There is additional controversy over effectiveness of ERPP actions to restore fisheries and improve water supply reliability and over the role of other system stressors on Delta fisheries. These areas of controversy also should be identified in the DPEIS/EIR.

P. 5.1-71 – Mitigation Strategies – The document states, "Conversion of Delta land use from agriculture to wetlands and marshes under the Ecosystem Restoration Program could result in increased water use and potential negative impacts on agricultural and urban water supply reliability. The cumulative beneficial effect on all actions under the Preferred Program Alternative, including the Water Quality Program, Water Use Efficiency Program, Water Transfer Program, conveyance improvements, and potential new water storage facilities, is expected to significantly outweigh this potential loss of water supply, resulting in no significant adverse impacts." If agricultural land conversion and associated water supply impacts occur prior to development of new water supplies, the cumulative beneficial impacts will not occur, since there will be a seven to fifteen year lag time between the adverse impact and the beneficial impact. Therefore, the Farm Bureau strongly disagrees with how these benefits and the need for mitigation are discussed in this section. This section needs to be rewritten.

Chapter 7 – Agricultural Land and Water Use

P. 7.1.-1 – The first side bar should state the CALFED policy that adverse effects to agricultural resources will be fully disclosed and avoided or mitigated as required by CEQA. The second side bar is misleading, as it presents only one possible outcome of the Preferred Program Alternative. The other is reduced water supply reliability (this could be construed as decreased certainty of supply) and increased flooding of agricultural land in the Delta due to in-Delta surface storage development.

P. 7.1-2 Potentially Significant Adverse Impacts – It is likely that changes in purpose and place of use of agricultural water supplies will result from CALFED actions. This is a potentially significant adverse impact that must be added to this list.

P. 7.1-2 Mitigation Strategies – This laundry list of mitigation measures is inconsistent in its approach, incomplete in identifying potential mitigation measures and strategies, and is devoid of any treatment of how the policy statement in the first paragraph of section 7.1.1 on page 7.1-1 will be implemented.

P. 7.1-4 – Areas of Controversy – Another area of controversy that needs to be identified here is the controversy as to when for the purposes of CEQA does an impact take place during a land acquisition activity.

P. 7.1-6 – Table 7.1-2 – This table on irrigated acreage should also rely on 1995 data, rather than data obtained from 1986 to 1995. These data are readily available from the appropriate County Agricultural Commissioners.

P. 7.1-6 – Table 7.1-3 and applicable sections on agricultural water use. The information presented is from 1985 to 1990. The existing environment is defined as 1995. The information

presented needs to be updated to 1995 to adequately describe the existing environment in terms of agricultural water supply and water use. The existing environment changed radically after Central Valley Improvement Act implementation in 1992.

P. 7.1-8 – 7.1.3.2 Delta Region existing agricultural land use – The last paragraph of this section discusses conversion of agricultural land to urban uses. A similar discussion needs to be included that discusses conversion of agricultural lands to habitat uses. The Stone Lakes National Wildlife Refuge, the Yolo Bypass Wildlife Area, the North Delta National Wildlife Refuge, and the Department of Water Resources Sherman and Twitchell Island acquisitions are some of the projects that come to mind.

P. 7.1-13 – Significance Criteria – The Farm Bureau recommends an additional significance criterion: Any impact on agricultural surface water supplies which in turn leads to increased groundwater pumping that would cause or exacerbate overdraft or reduce water supply reliability for agricultural lands.

P. 7.1-20 – 7.1.7.2 – Consequences, Delta Region, Storage – The proposed Delta Wetlands project alone would convert over 16,000 acres of agricultural land in the Delta. Flooding of Woodward and Victoria islands could result in conversion of additional agricultural lands and change the place and purpose of use of agricultural water supplies. This needs to be addressed properly, consistently and completely in the DPEIS/EIR.

P. 7.1-29 – Additional Impacts Analysis – This important information should be included in the appropriate sections of this chapter and not segregated where it is not easily accessible to the reader. It should be noted CALFED is funding actions to support CVPIA implementation, Stone Lakes NWR expansion and North Delta NWR expansion (prior to completion of its DPEIS/EIR). These activities must be considered a part of CALFED, as they are implemented by CALFED participating agencies and funded by CALFED. As such, they cannot move forward without appropriate and complete environmental review and documentation.

P. 7.1-30 – section 7.1.11 Mitigation Strategies – This section is wholly inadequate. Please refer to general comments above.

P. 7.2-5 – Criteria for Determining Adverse Effects – CALFED needs to add the following statement: changes in on-the-ground conditions, such as invasive species, cultural practices and cropping patterns to accommodate habitat considerations, irrigation water availability and timing, and other matters essential to an understanding of existing environmental conditions and how the proposed action will adversely affect these conditions.

P. 7.14.1-7.14-18 – Environmental Justice – CALFED erroneously seeks to ignore what it describes as "adverse social and economic effects" of massive agricultural land conversions, land retirement, land fallowing via water transfers, and land losses due to growth-inducing impacts of CALFED activities that lead to additional urbanization of existing agricultural land. CALFED speaks of reducing environmental resources available to agriculture in economic terms and ignores the physical effect of reducing the levels of agricultural production sufficient to maintain

viable communities for farm workers, agribusiness workers, related service providers and their families. These physical effects require mitigation under CEQA. It is ludicrous for CALFED to suggest that short-term restoration related employment opportunities and long-term fishing and hunting will be sufficient to provide these workers and their families with sufficient income to live on. Further, CALFED suggests, without any apparent substantiation, that land in other areas, such as the Bay region, could be developed to lessen the environmental justice effects of loss of agricultural employment. CALFED also proposes to provide skill training and employment relocation, provide project jobs and positions where skills can be transferred or where minimal retraining is required, provide housing relocation, and develop systems to assure an adequate water supply for potential adverse direct effects (such as moving people from potential restoration areas), or indirect effects (such as reducing the accessibility of groundwater supplies). The only proposed "mitigation" suggested in this statement by CALFED is the development of systems to ensure adequate water supply, and only to the extent that system includes newly developed water supplies such as storage options. The other ideas broached by CALFED are absurd, overly intrusive and exceed CALFED's scope of authority.

Chapter 8 – Compliance with Applicable Laws, Policies, and Plans and Regulatory Framework

P. 8-1 – This first page indicates the approach CALFED plans to take concerning further environmental documentation during Phase III. This approach is wholly inadequate as it provides no opportunity to address cumulative impacts resulting from the program in its entirety. These cumulative impacts, including but not limited to agricultural land conversion, cannot be addressed on a piecemeal, site-specific basis as is proposed here.

The Farm Bureau objects to the erroneous assertion made in the second paragraph and side bar that, "Because of the programmatic nature of the document, not all environmental laws and regulations (or all aspects of those laws and regulations) pertain to the Program at this phase of the process." See general comments above.

P. 8-2 – section 8.1.1 NEPA/CEQA – This section or Chapter 4 should discuss the purpose of a programmatic EIS/R. Please refer to the general comments above and specifically to section 15168, subsections (a)(4), (b)(1-4), (c)(3) of the CEQA Guidelines. The purpose of a PEIS/R is for early development of alternatives, statements of policy and program-wide mitigation measures.

P. 8-8 – section 8.1.7 – FPPA compliance – This section is not adequate. It relies on subsequent tiering with no policy for avoidance and mitigation of impacts. This section references chapters 4 and 7 as the foundation for mitigation for project-specific actions, but provides no policy for how mitigation measures will be implemented. This approach also provides no opportunity to address and mitigate cumulative impacts and implement program-wide mitigation measures. This fundamental purpose of a PEIS/R is not being fulfilled.

8.1.10 Executive Order 11990 – Protection of Wetlands – Federal – The current state policy towards wetlands protection and development as expressed in The Governor's Executive Order

concerning wetlands protection in California should also be referenced (Executive Order W-59-93). It includes language recognizing the importance of agricultural land and private property protection.

There is no discussion of consistency of the CALFED Preferred Program Alternative with the Williamson Act, the Agricultural Lands Stewardship Program, the NRCS Conservation Reserve Program or the Conservation Reserve Enhancement Program. These should be discussed.

Chapter 9 – Mitigation Strategies Monitoring Plan

CEQA requires that a PEIS/R identify mitigation measures for any significant environmental effect identified. This draft only acknowledges site-specific mitigation for impacts of later tiers of projects subsequent to the certification of the Programmatic EIS/R. The DPEIS/EIR must address programmatic level mitigation for program level impacts. This is the only feasible way to address cumulative impacts. This must also be addressed in Chapter 9. Without mitigation at the programmatic level, the programmatic EIS/R will be inadequate.

P. 9-1 – section 9.1 Introduction – This section suggests that mitigation measures and strategies adopted in the Final PEIS/R will be used to guide subsequent project-specific documents. However, nowhere in the DPEIS/EIR is there any statement that any mitigation measure or strategy will be adopted. All are only proposed. Please refer to section 9.2.

P. 9-1 – section 9.2 Mitigation Strategies – The thrust of the discussion in 9.2 is that all specifics of mitigation will be deferred until subsequent tiers of approvals. Mitigation strategies are "proposed" and provide an array of actions that "could" be used, and will be used to "guide proposed mitigation." This section goes on to state CALFED "will consider those strategies" and "may develop and consider" mitigation measures. This discussion is wholly inadequate and provides no statement of policy towards mitigation of impacts to existing agricultural resources. It provides no assurances that any mitigation will be implemented at the program level or the site-specific level. This approach does not provide for equal treatment of various features of the existing environment as required by CEQA.

CEQA requires the degree of specificity of a PEIS/R correspond to the degree of specificity of the underlying activity that is described in the PEIS/R. CALFED chose to develop highly detailed plans for certain elements of the proposed program, for example, the 1,000 plus page ERPP. Having done so, CALFED cannot abrogate its responsibility to produce a PEIS/R with the same level of specificity for mitigation measures as it has for the proposed program elements. Mitigation is part of the project, and it must be developed and disclosed at the same level of specificity as the proposed actions in order for the public and decision makers to understand the whole of the proposed program, including the costs.

P. 9-3 – Section 9.3 Monitoring and Reporting Process – This section begins with the following statement: "The discussion about the monitoring and reporting process contained in this document is consistent with the programmatic nature of CALFED Phase II environmental documents. The discussion is general because most specific actions have not been determined at

this time." This is simply untrue. The CALFED program has developed highly detailed plans, and, as noted above, unless each of these incorporates impact analysis and mitigation in the same level of detail as the underlying proposal, the DPEIS/EIR is inadequate. Furthermore, nowhere is there programmatic level mitigation, as is appropriate for a programmatic PEIS/R and required to address cumulative impacts.

Attachment A

P. A-35 – add the North Delta Wildlife Refuge to the list of actions that may contribute to cumulative impacts.

Alternatives Matrix – There are no alternatives listed in the matrix except for three conveyance features (screened intake at Hood; North Delta Channel Modifications; open channel from Hood to CCF). This matrix summarizes the failure of CALFED to develop and analyze alternatives to each of the CALFED program elements that could avoid and reduce impacts to features of the existing environment such as agricultural land and water.

For all of the reasons identified above and discussed more specifically below, the DPEIS/EIR is woefully inadequate and must be rewritten and recirculated for public review and comment.

B. Overarching Concerns

CALFED's general disdain for treating agriculture as part of the existing environment and its contempt for preserving agricultural viability is manifest in statements in at least three key documents, namely, the Multispecies Conservation Strategy, the Environmental Restoration Program Plan, and the Water Quality Program Plan; and in the absence of at least one document, the Integrated Storage Investigation.

1. Multispecies Conservation Strategy

The vast majority of the conservation measures identified in the Multispecies Conservation Strategy (Strategy) as necessary to achieve CALFED's lofty goals will occur on private land at the expense of private landowners. Coincidentally, most of these private landowners are farmers and ranchers. The only legal obligation imposed on private landowners is that their activities not contribute to the decline of listed species. CALFED's obligation parallels that. Contrary to this obligation, CALFED states its intent through the Strategy to "contribute to the long-term survival leading to the delisting" or "contribute to recovery" of more than 40 species, 16 of which are not even listed under the federal or state Endangered Species Acts. CALFED's scheme greatly exceeds the necessary protection measures as well as the legally required level of protection.

Many of the recovery goals found in Table 3-1 (pp. 3-5 through 3-10) are goals that CALFED decided were necessary to achieve "recovery." CALFED's job is not to implement the Endangered Species Act (ESA). CALFED's part under the Framework Agreement and the Bay-

Delta Accord is to help solve California's water problems in a comprehensive and equitable manner. If CALFED were to achieve the later assigned goal, it would, by default, result in immeasurable improvements for the overall environment, including agricultural resources. CALFED could make more appropriate use of limited financial and other resources by achieving the objectives set forth in those agreements and in SB 900 in an equitable manner for all of California's water users rather than creating, with no apparent authority, recovery plans for listed species.

The effects of this Strategy on agriculture will be immense. The ambitious recovery goals set forth in the Strategy will affect more than 1.2 million acres of land and 950 miles of water bodies targeted for protection, enhancement or maintenance for wildlife habitat values. The vast majority of this land is currently in private ownership and will most likely be taken out of production agriculture. Specifically, more than 388,000 acres of upland cropland and more than 388,000 acres of seasonally flooded agricultural land will be "managed for improved wildlife habitat values."[14] This imposes the burden of recovery on private landowners, something not authorized under the ESA. A private landowner's obligation under the ESA is to avoid "taking" a species. The burden of recovery falls to the federal government. A private landowner's obligation is not one of recovery (R) as defined by CALFED, but merely one of maintenance.[15]

The mantra of CALFED has been that "a solution to problems in one resource category cannot be pursued without addressing problems in the other resource categories." Demanding that more than 776,000 acres of upland cropland and irrigated agricultural land be managed for wildlife habitat values will certainly create problems for environmental resources dedicated to the agricultural side of the equation. The same can be said for CALFED's ambitious desire to create and/or restore 18 habitat types to recover or contribute to the recovery of listed species. This ambition cannot be fulfilled without changing the management goals and techniques utilized on agricultural property. Such changes will have a significant adverse impact on both agricultural environmental resources and wildlife habitat resources. This result is contrary to CALFED's charter, which requires equitable solutions for all user groups and environmental protection in a manner that minimizes impacts on the state's economy and resources.

CALFED seems to be proposing, without giving any specifics, a programmatic "section 7 consultation." This approach sounds like, looks like, and smells like a never-ending legal process that can only spell trouble for private landowners. The Farm Bureau doubts whether such a scheme would even be recognized under the ESA. Although CALFED claims to utilize a streamlined process, this will not occur in the Strategy as laid out in the DPEIS/EIR. CALFED proposes to create "action-specific implementation plans" (ASIPs) in order to evaluate and/or improve 243 species and 18 different habitat types. These ASIPs do not currently exist and no biological information has been gathered sufficient to satisfy Section 7 consultation requirements. In CALFED's parlance, this approach will constitute streamlining because, in theory, a group of similar projects will be lumped together and go through a single Section 7

[14] Multi-Species Conservation Strategy, pp. 3-2, 3-3.
[15] Multi-Species Conservation Strategy, pp. 1-5, 1-6.

consultation process. Even assuming this process is legal, Section 7 consultation is still incredibly tedious and time consuming. The Farm Bureau questions what role CALFED will play since it has no legal authority outside its existence as part of the Framework Agreement and the Bay-Delta Accord.

Years may pass before the National Marine Fisheries Service or the U.S. Fish and Wildlife Service decide to initiate "informal" Section 7 consultation on projects. In the interim, projects cannot proceed. During this "informal" consultation process, demands are often made for additional data, new, different or increased mitigation, and fundamental changes in the project itself. No deadlines are met. No records of decision are made. There is no opportunity for public comment. There is no opportunity for the individuals who are proposing the project or who will be affected by the project to provide input. Informal consultation is merely the U.S. Fish and Wildlife Service or the National Marine Fisheries Service and the authorized agency negotiation terms upon which the project can proceed. Admittedly, if this informal process is ever finished, formal consultation is a much more open process with statutory deadlines. There is nothing CALFED or the affected public can do to implore the agencies to end the "informal consultation" and begin the "formal" consultation. CALFED should try to do something about that in its role as a facilitator for better communications and coordination among state and federal agencies with jurisdiction in this area. This would be a good and appropriate activity for CALFED to pursue.

Given the size of the project's area proposed in the Strategy, it will be impossible to comply with the ESA mandate which, according to certain legal authority, holds that once consultation begins all activities that may adversely affect the project area must cease until consultation is concluded. The recent experience with water users' inability to rely on the pumps at Tracy due to the Delta-Smelt crisis emphasizes the critical need to be able to react very quickly to water resource concerns. Water users cannot simply wait patiently while consultation occurs. CALFED was created to fashion an end to this sort of competing water use conflict and resources gridlock.

CALFED apparently has not taken into account the likelihood of third-party lawsuits by those who believe mitigation is inadequate or that crucial piece of scientific information was not used during the consultation process. For this reason, among others, CALFED creates a risky future by proposing this bureaucratic process that never achieves results.

CALFED's promotion of adaptive management is jeopardized by its reliance on the consultation process. The Farm Bureau agrees with CALFED's stated desire to monitor the conditions and alter management strategies as we learn more about the dynamic ecosystems. Consultation, in and of itself, does not lend itself to such an approach. Each time a substantive management change is necessary and desired, a new consultation process must be initiated. Failing to do so would leave CALFED extremely vulnerable to a legal challenge by any disgruntled party. Having to embark upon a new consultation process means adaptive management must wait extremely long periods of time to be implemented. CALFED already estimates as a 30-year timeline for implementation of all of these Common and Variable Programs. It will not be possible to utilize the information gleaned from the monitoring and

implement a credible adaptive management approach if the participants are forced to rely primarily on consultation.

The Farm Bureau finds it odd that there is not a single reference in the Strategy to where the land and water will come from or what activities are presently occurring in the areas targeted for habitat recovery. The Strategy will affect more than 1.2 million acres and 950 miles of waterbodies. But where will these effects take place? The document is critically silent. There is no mention of the amount of agricultural land that would have to be taken out of production, or sacrificed as rivers are allowed to meander freely and 18 different classifications of habitat type are created, restored or improved. There is no analysis regarding the socioeconomic effects of such a scheme and absolutely no recognition of the everyday real world impact on numerous Californians. In part, the Farm Bureau suspects these references are lacking because CALFED simply has no idea how it will achieve its goals, or if the goals are even necessary.

The Strategy never recognizes the role of agriculture in providing open space, habitat and feeding California's ever-expanding population in addition to the nation's and many world markets. The Strategy discusses flows necessary to "adequately protect" anadromous salmon populations. CALFED never produces a similar discussion regarding flows necessary to keep the agricultural industry viable or to supply adequate, safe and reliable water for urban and suburban users. Conversely, there is ample discussion in the DPEIS/EIR regarding greater sacrifices that need to be made by agriculture and other water users. Even more telling is the statement in the Strategy as follows:

> [c]onservation measures for upland cropland and seasonally flooded agricultural habitats are not intended to conserve agricultural land uses, but are directed at avoided impacts on agricultural lands that provide high wildlife habitat values or replacing the wildlife habitat values provided by agricultural lands . . . (CALFED MSCS, p. 5-28.)

The commitment of farmers and ranchers to conservation is well-documented. (Attached as **Exhibit E.**) For over 100 years, agriculturists have nurtured and cared for the environment as part of their daily operations. The Strategy's proclamation that agriculture's goal must shift from producing food and fiber for our growing population to producing habitat for wildlife is absurd. CALFED is promoting drastic changes in the management goals and techniques on agricultural property. This can only produce negative impacts on the agricultural community and the environment. CALFED does not even acknowledge in passing such legal necessities as private property rights and the diminution in value of private property when you hinder a landowner's ability to continue the production of food and fiber. CALFED has no legal authority to take agricultural land out of production and turn farms and ranches into wildlife refuges.

Adjacent landowners will suffer significant impacts as a result of CALFED's proposed actions under this Strategy. CALFED fails to recognize this possibility as well. Other important issues not discussed in the Strategy include (1) the amount of property that will be lost as a result of erosion due to the meandering of water bodies; (2) the plans for compensation of innocent landowners when their property falls into the path of the meandering river; (3) the increased risk

to public health and safety as a result of undertaking levee actions designed to improve habitat quality rather than to improve flood protection; (4) recognition that implementation of the Strategy will not occur in a vacuum. CALFED's proposed actions will create hardships. These hardships must be acknowledged and fully evaluated before the Strategy is undertaken. CALFED is obligated to mitigate the negative impacts this Strategy will inflict on agricultural resources.

2. Ecosystem Restoration Program Plan

The water supply necessary to sustain agriculture's environmental resources is severely threatened by CALFED's program goals as set forth in the Ecosystem Restoration Program Plan (ERPP). Primarily, the ERPP seeks to improve water temperatures for fish by increasing instream flows. The amount of water required for this purpose is unclear, however, largely because CALFED is often unclear about the appropriate temperature. Thus, more water could be required than the estimated range of 186,905 acre-feet to 402,891 acre-feet presented in the ERPP. It is difficult to determine exact water figures for any of the proposals in the ERPP. For example, Table 5 from the Habitat Plan indicates higher numbers for the Bay than found in Table 4-2. In addition, not all "targets" and "programmatic actions" are quantified. CALFED's stated desire to put ten percent of leveed lands into the active floodplains of the Delta, for example, raises the question of overlap with other acreage targeted for wetlands habitat. The wetlands acreage clearly will require water supplies to sustain its existence. Based on information provided in Volume 2 of the ERPP, it appears acreage targeted will range from 8,578 to 1,056,0178 plus anywhere from 634 to 813 miles.

Agricultural resources are further threatened by CALFED's plan to change or eliminate a significant number of agricultural diversions and the use of seasonal diversion dams. CALFED also expresses its desire to remove dams and reservoirs and remove or modify culvert crossings. CALFED also would modify Central Valley Project operations and plans to acquire water from "willing sellers" with a view toward available carry-over storage in reservoirs and flows targeted to meet needs determined solely by water temperature objectives for fisheries. CALFED has no trouble rationalizing the targets and programmatic actions set forth in the ERPP in part as follows:

> Natural stream-flow patterns are important in maintaining geomorphology of watersheds, as well as riparian and floodplain vegetation along streambanks. Stream-flow is also essential for the well-being of valley wetlands and upstream passage of adult anadromous fish, spawning, successful outmigration and downstream migration of juveniles. In addition, streamflows influences (sic) stream channels morphology, riparian communities, and fish habitat.

These statements are made with respect to flow targets in the American River Basin Ecological Management Zone. It is one example of the detailed consideration given to acknowledging and planning for restoration of riverine and habitat environment for fish and wildlife. No similar statements are made regarding program-induced effects on surface water resources for other uses, such as agricultural and urban water users, that may occur due to changes in the timing,

direction, and magnitude of flows, changes in water quality, and changes in the amount of water available to meet future water demands for people. Additionally, CALFED fails to acknowledge anywhere in the ERPP that changes in water supply as a result of this program will be adverse and significant because they result in a reduction in the amount of water that can be delivered to meet an established demand for water. There is no recognition in the ERPP of established demand and supply in terms of quantity, location, and timing to meet the present or future needs of agricultural and urban water users. Without this critical information it is impossible for CALFED to appropriately evaluate what impacts the ERPP will have. Further, it is clear that CALFED cannot balance these uses without evaluating such detailed information.

CALFED is ignoring the big picture. The ERPP does not recognize water as being taken out of agriculture's statewide allocation. Farming activities displaced by a CALFED program will be lost forever when the agricultural water allocation is converted to non-agricultural uses. Existing farms will be unable to expand or relocate to compensate for this loss of production, and wholesale farm losses will result.

Further complicating the scenario is the fact that CALFED water acquisition totals are not clear. Quantities are not always attached to program proposals and the DPEIS/EIR does not otherwise clearly enunciate water requirements. Moreover, CALFED's ERPP does not foreclose the possibility that even more will water will be removed from agricultural resources as the plan matures.

It is also entirely unclear from reading the ERPP how much land is targeted for acquisition. The ERPP is vague on lands targeted for purchase, as opposed to lands that will be "cooperatively" managed. The ERPP repeatedly suggests that environmental goals may be satisfied through "conservation easements, fee title acquisitions, or voluntary landowner measures." The ERPP fails to acknowledge, however, that the impact of removing land from agricultural production or restricting agricultural uses to certain crops or seasons is substantially more significant than can be addressed through so-called "cooperative management." Further, CALFED cannot adequately evaluate or disclose the environmental significance of the ERPP without determining the extent to which each management tool will be used. The overall result in the DPEIS/EIR is a failure to disclose to the public the extent of the program's impact on the environment. CALFED is failing to take hard look at the environmental impacts of the program.

The ERPP reveals CALFED's statement that it will focus first on lands already in public hands as disingenuous. CALFED already has funded the purchase of many thousands of acres of private lands for the restoration program. There has been no appropriate public disclosure regarding these acquisitions. CALFED recognizes that some of these lands will directly benefit the program and notes previously purchased parcels, but fails to address the fact that the aforementioned purchases were undertaken prior to publication of this DPEIS/EIR and without appropriate CEQA documentation for each acquisition. CALFED's piecemeal approach to land acquisitions can only stymie evaluation of cumulative impacts. Furthermore, how can farmers and ranchers believe in CALFED's intent to do site-specific environmental impact statements on lands purchased after publication of the Record of Decision when CALFED's current track record is so abysmal in this regard?

The DPEIS/EIR demonstrates CALFED has failed to adequately consider the cumulative impacts of other known projects that are proposing land retirement and acquisition of agricultural land and water resources. For example, CALFED participating agencies are involved in the Central Valley Improvement Act land retirement program that is targeting up to 43,000 acres of farmland within the CALFED planning area. At the same time, urban development projects will proceed and additional farmland will be lost to urban sprawl. In addition, water transfer proposals currently under consideration and CALFED's own Water Use Efficiency Program will result in additional retirements of agricultural land either due to fallowing or salt buildup. These land retirements may result in making additional land available for conversion to habitat under CALFED's programs, various Central Valley Project Improvement Act programs, and other initiatives such as the Central Valley Project Joint Habitat Venture, but the quality of the environment resulting from these massive conversions will not be favorable.

CALFED appears not to understand the importance of evaluating cumulative impacts. These impacts are defined in NEPA regulations as follows:

> Cumulative impacts are the impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR 1508.7.)

CEQA's cumulative impact definition is similar to the federal standard and it is very specific as to what issues must be addressed within the cumulative impacts analysis. CEQA requires a detailed review of a program's cumulatively effects, especially if it is determined that "the project has possible environmental effects which are individually limited but cumulative considerable." (*See* 14 CCR §15130.) CALFED's prior agricultural land acquisitions, the agricultural land acquisitions by other state and federal agencies, and urban development involve a number of projects that are already deep into the planning or implementation phases. There is no question their impacts must be reviewed in the CALFED DPEIS/EIR. Moreover, there is no doubt cumulative impacts of the CALFED program are individually significant, and when combined with other past, existing, and future programs, the combined impacts are overwhelming in the conversion of agricultural resources.

The success of the ERPP lies squarely on the shoulders of the agricultural community, yet the future success of the agricultural industry is a low priority with CALFED. While the Strategic Plan for Ecosystem Restoration (Strategic Plan) recognizes stakeholders' concerns about the cessation of particular human activities, and CALFED's statement that destroying the fabric of society it is intended to serve is not the intent of the plan, the Farm Bureau is hard pressed to find support for agricultural inability in their DPEIS/EIR. The Strategic Plan proposes to reestablish the balance in ecosystem structure and function to meet the needs of plant, animal, and human communities while maintaining or stimulating the region's diverse and vibrant economy. Yet CALFED ignores the needs of the agricultural community, the predominant

employer in the Delta region and an important California resource. Rather, the clear intent presented in the DPEIS/EIR is to sacrifice the agricultural community.

One of the primary threats to the future of the agricultural community is CALFED's plan to resolve the water supply "mismatch" by acquiring ownership of substantial agricultural water supplies. By purchasing substantial water rights, the government agencies that are members of CALFED will acquire more authority over statewide water supplies, but private citizens will suffer increased water supply "mismatch" issues because the public pool of available water will be further diminished.

CALFED's plans to implement widespread land retirement and acquire agricultural water supplies are directly contrary to its solution principles. First, with respect to the statement that solutions will not solve problems in the Bay-Delta system by redirecting significant negative impacts, when viewed in their entirety, within the Bay-Delta or other regions of California, the CALFED program fails. The massive consumption of agricultural resources to promote CALFED's environmental goals constitutes a significant redirection of negative impacts onto the agricultural community.

Closely related to the above solution principle is the requirement that the CALFED plan be durable and have the political and economic staying power to sustain the resources the solutions were designed to protect and enhance. Moreover, the solutions are to have broad public acceptance. CALFED's plan to acquire control over massive amounts of agricultural resources does not have broad public support and is not economically feasible. Rural communities and counties throughout the state will be devastated by the removal of a million plus acres of previously productive agricultural land and the loss of associated jobs and sales and services. Moreover, California's bountiful fresh food supply will be seriously threatened. All parts of the nation that rely on California's agricultural production will have to shift that reliance to foreign imports which may be lower in quality and may be grown with fewer pesticide controls. This is not a means to sustain the agricultural resources over which CALFED is charged to facilitate protection and enhancement.

CALFED's ERPP has questionable affordability. It remains unclear what are the origins of the money CALFED has already spent, how the CALFED programs are currently prioritized, selected and funded, and where the money to sustain these programs will come from in the future. The estimated cost of Stage 1 of the plan is at least $5.2 billion. The Farm Bureau would hate to see CALFED repeat a pattern the agricultural community has witnessed far too often: government acquisition of land that is idled and then falls into disrepair due to lack of funds for ongoing proper maintenance.

There is a way for CALFED to develop the coordination and collaboration required by the Framework Agreement and the Bay-Delta Accord. First and foremost, CALFED must revise its program proposals to reduce, avoid, or mitigate impacts on agricultural resources. Programmatically, CALFED should develop outreach and support services for farmers and ranchers so CALFED objectives may be reached while maintaining the private ownership and economic productivity of agricultural land and water resources. The Farm Bureau vehemently

opposes widespread conversion of agricultural land and water resources. Instead, the Farm Bureau endorses local voluntary programs that are landowner driven. Only through cooperative programs actively involving agricultural landowners on targeted properties as well as adjacent properties will the agricultural community be able to work with CALFED so that they move forward with the other stakeholders.

CALFED also should assist local agencies in planning and implementing water quality and habitat enhancements through means other than land retirement and the acquisition of water rights. The Farm Bureau strongly objects to any effort to require agricultural users to pay any additional costs to replace water taken for environmental uses through regulatory actions or for replacing water dedicated to environmental protection by legislative actions and the Bay-Delta Accord. For this reason, the Farm Bureau urges CALFED to develop a set of incentives applicable to agricultural resources that will provide a foundation for addressing a number of concerns raised with respect to the ERPP and the Multi-species Conservation Strategy. The Farm Bureau supports a set of basic protections, or Assurances, to provide landowner protection and incentives to participate in CALFED's ERPP. These Assurances are hereby incorporated by reference as part of the Farm Bureau's comments on the DPEIS/EIR (attached as **Exhibit F**).

The ERPP is inadequate because it fails to clarify and backup with substantiating documentation a number of the concerns raised as targets for resolution. For example, the ERPP states that declines in plankton populations from chlorophyll concentrations may be the result, at least in part, of the effects of heavy metals, herbicides, pesticides, or other toxic substances. (See ERPP, Vol. 1, p. 96.) Throughout the plan, however, agricultural contaminants are listed as stressors without evidence connecting these conditions to reductions in species abundance. (See Strategic Plan, page 37.) The Farm Bureau also questions CALFED's jurisdiction over this issue in light of the existing framework for basin planning that would address non-point source pollution and water quality control efforts. (See discussion below on the Water Quality Program Plan.)

3. Water Quality Program Plan

OVERVIEW

The Water Quality Program Plan (WQPP) of the CALFED Bay-Delta Program (CALFED) shares the twin flaws of every CALFED program element: it has inflated both the purpose and geographic reach of CALFED beyond any semblance to the intent of the agreements that set it in motion. First, the WQPP disregards the intended, limited purpose of CALFED as a temporary vehicle for communication and coordination among state and federal agencies in the exercise of their jurisdiction with respect to the Bay-Delta Estuary, and attempts to establish a permanent super agency controlling water quality policies and regulations. Second, it extends the geographic reach of CALFED in water quality planning beyond any reasonable physical connection to Bay-Delta water quality impacts. The result is to allow an unelected, largely unseen, and therefore unaccountable directorate of narrowly-focused CALFED "'eulogists" to use water quality regulation as a lever to force their vision of proper land use planning and economic development upon almost every community of the state, without the hindrance of

public scrutiny and local influence. CALFED has become the Trojan horse of California governance.

TEMPORAL AND GEOGRAPHIC SCOPE OF THE WQPP:

The Introduction to the WQPP (pp. 1-4 to 1-13) assumes that the "six solution principles" and the CALFED "long-term comprehensive plan" apply almost statewide, and that water quality planning is therefore under the purview of CALFED throughout the state (1-1, 1-7). In the WQPP, this is justified by asserting that "the purpose (of CALFED) is to improve the quality of the waters of the Sacramento-San Joaquin Delta estuary for all beneficial uses," therefore, "(b)ecause species dependent on the Delta are affected by upstream water conditions in some areas, the scope of the Water Quality Program also includes watershed actions to reduce water quality impacts on these species" (1-4). The solution area is described as the "Delta estuary and its watersheds . . ." (emphasis added), and the "vision" described for the WQPP over this potentially immense area is to "create water quality conditions that fully support a healthy and diverse ecosystem and the multiplicity of human uses of the water" (1-5). The Introduction further states that "CALFED will strive to continually improve the quality of waters of the San Francisco Bay-Delta estuary until no ecological, drinking water, or other beneficial uses of the water are impaired by water quality problems, and to maintain this quality once achieved" (1-5). Because there is no established legal definition of a "watershed" to provide jurisdictional boundaries, the WQPP has asserted authority to impose its "solution principles" upon the farthest reaches of the Sacramento and San Joaquin River drainages, and even upon drainages that do not contribute to the Bay-Delta estuary, such as the North and South coasts.

This is to be done through an ongoing "evolutionary process" of "adaptive management" that apparently will be endless. In order to accomplish the CALFED "vision", the document calls for "maintaining the Water Quality Technical Group (WQTG) as the "primary" vehicle through which the program is guided in the coming years." (1-7)

The relationship of the WQTG to existing agencies is not spelled out, but it is clear that by "primary," CALFED means it has superceding authority. Under 1.4, Water Quality Protection Program Actions, the WQPP incorporates the Clean Water Act (CWA) section 303(d)(1)(A) and (B) list of impaired water bodies, the CWA section 303(d)(1)(C)TMDL process, and the identification of narrative or numerical water quality standards for each parameter of concern pursuant to CWA section 303(a), all of which are, under the CWA, the function first of the State Water Resources Control Board and Regional Water Quality Control Boards, and secondarily the function of USEPA, if the state fails to do its job (1-9 to 1-11). These water quality planning and attainment issues are, by federal and state law, all addressed through open, public, formal rule-making processes, requiring notice to all affected interests and opportunity to be heard through public comment and hearings. All are subject to the state and federal Administrative Procedure Acts. All impose bureaucratic accountability through citizen suits. Although the WQPP mentions these statutory regulatory processes, it does not acknowledge the primacy of the state and federal agencies designated by statute to conduct the processes, nor the public's statutorily-guaranteed role in the development of water quality standards, lists of impaired waters, TMDLs and the implementation of TMDLs. In fact, the only

regional boards given a role by CALFED, indeed, even mentioned in the WQPP, are the San Francisco Bay and Central Valley Regional Water Quality Control Boards, which will apparently continue to function under the general, but not clearly outlined, authority of CALFED. No role is given to the seven remaining Regional Water Quality Control Boards that each have jurisdiction over some part of the "solution area" of the WQPP (1-10 to 1-11). In short, through the WQPP, CALFED is claiming plenary and permanent authority over water quality planning and implementation without public review and accountability.

This bureaucratic *coup d'etat* was certainly neither intended nor foreseen when CALFED was created. The functional scope of CALFED future involvement is defined and limited by the 1994 Framework Agreement ("Framework") to facilitating coordination and communication among other agencies. The Framework states that the CALFED coordination and communication process ". . . must be consistent with applicable procedural and substantive requirements . . ." of the participating governments and agencies, and, that "[n]othing in this Agreement is intended to, nor shall have the effect of, constraining or limiting the agencies in carrying out their statutory responsibilities . . . . Nor is anything is this Agreement intended to, nor shall it have the effect, of waiving or limiting any party's rights and remedies under any applicable law." (Framework, paragraph 9, page 5.)

Farm Bureau has concluded that the WQPP will establish an unlawful directive role for CALFED in the determination of water quality standards and the means of implementing those standards, superceding existing state and federal agencies which are given clearly defined and limited authorities by statute. Because of the great importance of these issues to the preservation of individual rights and the police powers of local government, Farm Bureau must reiterate and re-emphasize the limitations on CALFED's role, as set forth in the Framework Agreement and subsequent foundational documents.

There is no statutory authorization under either the Clean Water Act or the Porter-Cologne Water Quality Control Act for any entities other than the USEPA, State Water Resources Control Board and Regional Water Quality Control Boards to develop beneficial uses, water quality standards, and water quality standard attainment programs such as basin plans, TMDLs, etc. Creating an extra-legal shadow government with no accountability to the public and unlimited subject matter jurisdiction is not only contrary to the Clean Water Act, the Porter-Cologne Water Quality Control Act, and the Administrative Procedure Acts of the state and federal governments, but contravenes basic principles of limited government and private rights established under the federal and state Constitutions. This can only lead to protracted litigation that will impede the very goals CALFED was initially designed to facilitate.

The only constitutionally permissible role for CALFED is to serve as an interagency, intergovernmental coordination process, providing comments on Bay-Delta impacts within the context of statutorily authorized water quality planning processes conducted by the appropriate jurisdictional agencies. This function of CALFED in water quality planning and regulation must be very clearly delimited in the text of the WQPP, and a process for on-going and open participation by the public in any CALFED water quality deliberations must be established before the WQPP can pass statutory and Constitutional muster. CALFED's input into the water

quality regulatory processes conducted by the appropriate jurisdictional agencies must be limited to formal comments submitted in public comment periods, in the context of formal rule-making procedures, and every fact and opinion supporting its comments must be open to public review.

SUMMARY OF OBJECTIONS TO THE WQPP:

Farm Bureau registers the following general objections to the WQPP in its entirety, as presented in the draft WQPP Appendix to the EIR/EIS, and to the sufficiency of the EIR/EIS itself as an instrument for assessing the potential environmental impacts of the WQPP.

- Farm Bureau agrees with the general water quality improvement goals of the WQPP, but objects to its advocacy of specific solutions.

- Farm Bureau objects to the WQPP's establishment of a new tier of decision-making that avoids essential procedural safeguards in the existing statutory and regulatory processes for setting water quality standards and implementation elements, pursuant to the state Porter-Cologne Water Quality Control Act, state Nonpoint Source Plan, and the statutory guarantees for state primacy in the TMDL-setting and implementation processes established under the federal Clean Water Act.

- Farm Bureau objects to all of the factual assertions of the WQPP regarding the extent and sources of water quality impairments, on the ground that these assertions are unsupported by any citation to scientific evidence in the record, and therefore defeat the essential purpose of an EIS/EIR: to expose the basis of administrative decisions to public scrutiny. In the WQPP, the "Problem Descriptions" addressing specific impairments provide no citations to the sources of factual assertions. If this EIS/EIR is intended to serve as the environmental analysis supporting later decisions and actions, the scientific bases for all assertions of fact must be identified with particularity, so that the public can review the accuracy of the conclusions and the quality of the initial scientific analysis, can correct misinterpretations, and can provide more accurate or more recent information where it is available. The compilation of unsupported, conclusionary statements on which this draft EIS/EIR is based makes it impossible for the public to weigh the soundness of the proposed policies and actions of the WQPP, and provide informed comments.

- Farm Bureau objects to the inclusion of water quality impairments in the portion of Chapter 10 dealing with sedimentation and turbidity in the Upper Fall River, both because impairment in the Fall River has no nexus to the Bay-Delta, and because the conclusions set forth in the chapter are not based on sound science. As noted in the detailed written comments that follow, this section of Chapter 10 demonstrates the inadequacies and false conclusions that are likely to result from an incomplete record which was developed without opportunity for broad public input, and emphasizes the need for water quality impairments and impairment controls to be identified through the public processes established by the State Water Resources Control Board and Regional Water Quality Control Boards under the Porter-Cologne Water Quality Control Act and Clean Water Act.

- Farm Bureau objects to the WQPP's presentation of a menu of water quality improvement alternatives for the San Joaquin Valley that omits any consideration of a drainage system. Particularly in the case of excess salinity and selenium, the WQPP focuses almost exclusively on a combination of unproven technological processes that promise on-site treatment and solid-state removal of impairments, and land retirement—dismissing the drain option as politically infeasible. Farm Bureau supports continuing the development of management practices that reduce off-site migration of water quality impairments to the extent consistent with preserving the long-term productivity of the land. Farm Bureau also supports continuing research into on-site, in-valley processes to recapture and remove impairments. However, Farm Bureau maintains that the construction of a drain remains, now and for the foreseeable future, the only scientifically credible solution to many of the water quality impairment issues addressed in the WQPP, particularly excess salinity and selenium. The retirement of lands affected with severe drainage problems should be considered only after all other options have been exhausted, and in such limited cases, the opportunity to return the lands to agricultural production should be retained. In this nation and this world, with no surplus arable lands to bring into production, farmland retirement is not a sound environmental alternative.

- Farm Bureau objects to characterizing this EIS/EIR as even a programmatic environmental analysis of water quality issues because of the non-public nature of its development, the over-broad scope of issues it addresses, and its lack of appropriate citation to supporting evidence. The Clean Water Act, Porter-Cologne Water Quality Control Act, CEQA/NEPA reviews required at each decision level under those Acts, and the state and federal Administrative Procedure Acts safeguard the public's right to scrutinize and provide input into each level of water quality control decision-making, from the initial determination that there is an impairment to the development of the appropriate water quality attainment strategy. This global-level CALFED document must not be allowed to direct subsequent water quality decision-making, because the process by which it was developed clearly frustrates CEQA, NEPA, the CWA, the Porter-Cologne Water Quality Control Act, the state and federal APAs, and all procedural safeguards required by due process in the implementation of each and every one of those laws. The result is a document that cannot serve as a basis for informed decision-making and effective implementation of water quality controls.

- Farm Bureau objects to the overbroad scope of the proposed "Solution Area," which encompasses lands and waters that clearly can have no direct impact on water quality in the Bay-Delta, including the entire North Coast, the entire Central and South Coasts, and selected inland watersheds in the Southern California export areas, including Castaic Lake and Silverwood Lake. It also includes, as a sediment source, the Fall River in northern California, which can have no significant impact on the Bay-Delta because its route to the Sacramento River requires passage through the Pitt River drainage and through dams that would trap any sediment derived from the its watershed. In short, we object to including watersheds in the "Solution Area" that do not have a direct connection to solving water quality problems in the Bay-Delta; CALFED's assertion of any authority

over such watersheds lacks any rational basis in the water quality issues of the Bay-Delta, and is clearly beyond the scope of the Framework Agreement.

- Farm Bureau maintains that even when there is a demonstrable impact on Bay-Delta water quality from activities in tributary watersheds, it is beyond the scope of the Framework Agreement for CALFED to impose directly, or to demand conditions in any agreement, program, or permitting process that impose indirectly, any specific solutions to water quality problems within such tributary watersheds. CALFED's role in water quality planning is limited to providing financial or logistical support, and to assisting in coordinating solutions to tributary issues by providing comments within the appropriate planning processes of statutorily-authorized agencies.

- Farm Bureau objects that the WQPP also violates the substantive limits of the Principles for Agreement on Bay/Delta Standards between the State of California and the Federal Government (Agreement on Bay-Delta Standards), and the Bay-Delta Accord. Specifically, as discussed more fully below, CALFED's proposed WQPP does not comply with the following principle of the Principles for Agreement on Bay-Delta Standards: ". . . consistent with the Framework Agreement, . . . the SWRCB will act in compliance with all provisions of law which may be applicable, including, but not limited to, the water rights priority system and the statutory protections for areas of origin (Id., para. 4.b.)

- Farm Bureau reminds CALFED that the foundation for cooperation by all parties in this CALFED Bay-Delta planning process was the Framework Agreement, which clearly limited the role of CALFED to facilitating coordination and communication among the appropriate jurisdictional agencies, so that decisions made in separate regions of the state that could potentially have an effect on the Bay-Delta system would take the Bay-Delta into account. CALFED was intended to be a process, not an agency. It has no authority to direct or decide water quality issues. Farm Bureau cannot allow this process for coordination to become a process for decision. To do so would transform CALFED into a shadow government: unelected, uncontrolled by statute, unrestrained by due process, and unaccountable to the public.

SPECIFIC COMMENTS REGARDING WQPP TREATMENT OF INDIVIDUAL WATER QUALITY IMPAIRMENTS: CHAPTERS 2 THROUGH 12

Chapter 2. Low Dissolved Oxygen Concentration and Oxygen Depleted Substances (2-1 to 2-12):

Note that section 2.2, Problem Statement, page 2-1, ends in an incomplete sentence, indicating that some material has been omitted. It is not substantively important.

2.4, Delta Waterways (2-2 to 2-5): Under "Problem Description," this section describes at length the low dissolved oxygen problem detected below the outfall of the Stockton Regional

Wastewater Control Facility, and summarizes potential causes, finally concluding with a number of proposed actions under section 2.4.2, Approach to Solution. (2-6 to 2-8) Unfortunately, it does not provide any citation to the record or to independent authority. **Comment: This section briefly mentions the Central Valley Regional Water Quality Control Board (CVRWQCB) TMDL process currently underway, in which Farm Bureau and a comprehensive list of interested parties are active participants. Under the Clean Water Act, section 303(d), it is this TMDL process which will refine the determinations of cause and effect and establish waste load allocations (WLA) for point sources, and/or load allocations (LA) for nonpoint sources, to ensure that water quality standards for dissolved oxygen are not exceeded. The proper role for CALFED, to the extent it has any continuing role, would be to provide commentary on the broader scope of CALFED Bay-Delta concerns that may not otherwise be addressed in the dissolved oxygen TMDL process conducted by the CVRWQCB, and to assist in channeling funding to support the base load determination, monitoring, and other technical requirements of the regional board's TMDL process. CALFED could also play a positive role by funding implementation and on-going research projects conducted by private parties participating in that process. CALFED must not be allowed to establish a third layer of quasi-TMDL planning and implementation outside the appropriate statutory process. This distinction in roles is certainly not clear in the proposed actions and studies set forth under 2.4.2, "Approach to Solutions." It is imperative that CALFED be limited to a supportive role, and not be allowed to drive decision-making in the dissolved oxygen TMDL.**

2.5, East Side Delta Tributaries (2-9): **Comment: As with the preceding discussion of the San Joaquin River dissolved oxygen issue, the problem description asserts conclusions with no citation to authority, and proposes "Priority Actions" without mentioning the primary jurisdictional role of the CVRWQCB.**

2.6, Lower Sacramento River Tributaries (2-10); 2.7, San Joaquin River Region (2-10); 2.8, Suisun Marsh Wetlands (2-11 to 2-12): **Comment: The same observation applies to these sections—there is no recognition of the primary authority of the CVRWQCB, and the appearance is given that CALFED intends to establish its own funding, planning, research, and implementation program independent of the regional board's TMDL, basin planning, and other processes established by law. Allowing CALFED such independence can only result in siphoning critical resources away from the appropriate statutorily-established public water quality planning, research, and implementation processes, and will ultimately impede rather than promote the attainment of water quality standards by consuming scarce resources, adding conflicting administrative overlays, and promoting litigation over its authority to supercede such established legal processes.**

Chapter 3. Drinking Water (3-1 to 3-48):

This chapter shares the jurisdictional and scientific source citation defects noted in the comments above regarding Chapter 2.

3.1, Summary (3-3 to 3-10): This chapter states that "CALFED is developing an overall drinking water protection strategy to guide its activities." Although the content of this strategy is not set forth in any detail, the summary states that it will be a "continually evolving process to achieve the vision not only of providing drinking water that meets standards for public health protection but also is continually striving toward excellence in drinking water quality." This strategy is to evolve "through the full involvement of CALFED agencies, stakeholders, and the public." **Comment: No mention is made of the relationship between this new drinking water protection process, which must inevitably be a regulatory process, and the existing regulatory water quality system established through the federal Safe Drinking Water and Clean Water Acts, and state Porter-Cologne Water Quality Control Act. In view of the *tremendous public investment in the existing regulatory system* and the need for regulatory certainty, it is extremely important that this relationship be spelled out with specificity in the EIS/EIR to ensure that CALFED does not establish an unauthorized duplicative regulatory process. Dual water quality processes will inevitably result in contradictory regulatory requirements, arbitrary penalties, and standards working at cross purposes. This will also waste, in excess process, the public resources otherwise available for drinking water quality protection and improvement. As noted before, the proper role of CALFED is a limited one: assisting in the coordination of existing regulatory agencies to ensure that local and regional water quality planning efforts do not cause unanticipated cumulative adverse impacts on Bay-Delta water quality.**

3.6, Approach to Solution (3-10 to 3-12): This section summarizes potential action items for implementation in the near future, and includes specific recommendations for management of agricultural drains, animal enclosures, treated wastewater effluents, urban runoff, algae control, boating control, and local watershed management. Subsequent sections address more general local and regional approaches to protecting drinking water quality from agricultural sources of pollution, including decreasing levels of "nutrients, pesticides, pathogens, non-sea-water TDS, and TOC." This section does note that "(s)ome actions in this section could adversely affect parties who discharge waste in the Delta and its tributaries" (3-11), and states that "[p]rior to imposing these impacts, full project-specific environmental documents must be prepared to assess the complete range of proposed impacts, and mitigation measures must be proposed according to applicable laws." (Emphasis added.) **Comment: In short, it appears that CALFED proposes to achieve its drinking water quality objectives through mandated controls. This can only mean regulatory processes, generating penalties for noncompliance. Because there is no description of the relationship between this proposed CALFED drinking water program and the existing statutorily-created regulatory system, there is a clear danger that the "continually evolving process" CALFED is creating to achieve its "vision" will be, or will evolve into, an unauthorized regulatory role for CALFED.**

3.6.1, Bay-Delta Region (3-12 to 3-18): This section sets forth a list of ten so-called "priority actions" to achieve drinking water standards in the Bay-Delta region (the numbering is scrambled, but there are ten actions). These priority actions include: 4. refine and expand the comprehensive drinking water protection strategy to identify and control drinking water parameters of concern; 5. manage restoration projects to minimize adverse impacts and

maximize benefits for drinking water quality; 6. conduct a pilot study on agricultural drainage control actions; 7. implement full-scale agricultural drainage control actions; 8. minimize pathogens from recreational boating; 9. reduce wastewater and stormwater sources of drinking water constituents of concern; 7. evaluate treatment plant operational and technological needs; 8. identify problems and solutions to urban runoff; 9. reduce the loading of TDS to the Sacramento River, San Joaquin River and the Delta; and 10. conduct additional studies concerning algae and macrophyte growth. **Comment: To the extent these "actions" must simply be considered in the design and approval of CALFED-supported projects, setting forth a list of such issues is unobjectionable. However, the list appears to propose actual mandates to be imposed through CALFED. For example, under 6, "[c]onduct a pilot study on agricultural drainage control actions," is listed "d. Implementing land management projects, including conversion to early season crops, no-tillage farming practices, reduced frequency of winter leaching, conversion to wetlands, land retirement, and less-water intensive irrigation systems." (3-13.) There is no statutory authority or scientific basis for CALFED to advocate the adoption of any of these proposed management "projects" either as recommended or as preferred alternatives for drinking water quality protection, or for any other purpose. All of these actions might properly be explored in pilot projects, but there is no evidence cited in this EIS/EIR that any of these measures has been shown effective in improving drinking water quality in the Bay-Delta region, or that any will be economically viable. We object strenuously to the use of land retirement as a drinking water improvement strategy. We also note that there is evidence that some of these measures, such as no-till farming, reduced leaching, and conversion to wetlands can produce a net degradation of water quality under appropriate circumstances. Farm Bureau endorses further study of specific measures and the use of pilot projects for testing the applicability of measures developed elsewhere to the Bay-Delta environment, but we adamantly oppose the imposition of any particular measures.**

Individual "Priority Actions":

Priority action 7, "Implement full-scale agricultural drainage control actions," advocates implementing "cost-effective full-scale treatment or management actions that would reduce agricultural drainage in order to reduce the contribution of agricultural drainage to TOC concentrations at drinking water supply pumps." Specifically listed actions include "relocation of drains, treatment of drain water, management of drain water, and land management." **Comment: No mention is made of ensuring the prevention of soil salt accumulation, which could be the result of any of these activities. Increasing soil salinity will simply delay adverse impacts to the Bay-Delta from overly saline releases from irrigation or precipitation.**

Priority action 9 (the first number 9, page 3-14), "Reduce waste water and storm water sources of drinking water constituents of concern," notes that increased urbanization of the Bay-Delta may result in substantial degradation of the area's waters. However, this section does not acknowledge the concomitant water quality benefits of retaining agricultural lands in production within the Bay-Delta region. **Comment: Farm Bureau endorses the concern about urbanization as a stress on the availability**

of adequate drinking water and as a source of water quality degradation, and points out that although this chapter treats agricultural soil salinity as a potential source of drinking water degradation, it fails to recognize the compensating benefits of agricultural production in forestalling the need for additional urban drinking water, and preventing an increase in urban wastes. The salts associated with agricultural production are natural to the Bay-Delta system, and are simply recirculated within the system, whereas urban water quality impairments generally consist of introduced, unnatural constituents that would add qualitatively as well as quantitatively to the total water quality impairment problem in the Bay-Delta region.

Information Needed (3-15 to 3-16): This subsection of the Bay-Delta drinking water discussion lists six issues requiring further study before Bay-Delta drinking water quality can be addressed. They include: 1. refined measurements of sources and loadings of drinking water quality parameters of concern; 2. evaluation of drinking water treatment options; 3. evaluation of approaches to reduce organic carbon loadings from agriculture; 4. augmentation of existing monitoring activities to determine drainage volumes and quality in Delta channels; 5. assistance in identifying and developing improved analytical techniques for *Cryptosporidium* and *Giardia*; and, 6. evaluation of algae and macrophyte growth constituents in water. **Comment: Farm Bureau supports further research and monitoring, but maintains that CALFED's role should be limited to supporting established research institutions and assisting in coordination and communication among researchers. The results of any publicly funded research should be available to the public, except to the extent privacy rights may require confidentiality as to source.**

Existing Activities (3-16 to 3-18): This sub-part of the Bay Delta section lists a number of ongoing investigative programs and activities related to the treatment of agricultural drainage, managing the frequency of leaching, re-routing agricultural drainage, storing drainage water in detention ponds for release during high flows, conversion to low till cropping, conversion to flooded wetlands, and implementing irrigation efficiency measures. **Comment: All of these measures require much in-depth study; none should be endorsed as a preferred alternative for any particular area at this time, since all can result in impairing the productivity of agricultural lands if not properly managed or if local circumstances are unfavorable. Farm Bureau emphasizes its position that no alternative that reduces the productivity of agricultural land is acceptable. Moreover, such proposals as requiring the conversion of croplands to permanent pasture and grazing (discussed under "conversion to low-tillage cropping and other options") are not environmentally sound. California must recognize that the protection of lands producing high value, highly nutritive crops can be reconciled with attaining drinking water quality standards, and that it is environmentally unsound to sacrifice long-term agricultural productivity to achieve short-term gains in drinking water quality. Any measures endorsed by CALFED for drinking water quality purposes must achieve both goals.**

3.6.2, Sacramento and American Rivers (3-18 to 3-20): This section states that water quality is currently higher in the Sacramento River and American River than in the Delta proper, but asserts that CALFED has an interest in protecting long-term water quality in the Sacramento/American River region to prevent future contributions to the impairment of drinking water quality in the Bay-Delta. The section lists future urbanization of the Sacramento and American River corridors as such a source of impairment, stating that "[l]ong-term urban development is expected along these rivers that could potentially degrade their quality." However, it also emphasizes the need for further controls on potential agricultural sources of drinking water degradation, particularly "impacts from livestock grazing," and calls for the implementation of grazing "BMPs." **Comment: This section exaggerates the potential adverse grazing impacts of pathogens and nutrients, and fails to mention that the Alameda County Watershed Water Quality Program has found that pathogen problems associated with livestock grazing are extremely limited in occurrence and easily addressed through simple pasture management measures. It also fails to reveal that other studies have found that range animals not receiving supplemental food will produce a net reduction in off-site transport of nitrogen, phosphorus, and other nutrient pollutants. Farm Bureau notes that the obvious solution to CALFED's concern about water quality degradation from urbanization in the Sacramento-American River watersheds, or anywhere, is to keep land in agriculture. CALFED could best assist in achieving this goal by supporting agricultural projects to improve water quality, not by extending its assertion of regulatory authority to areas *not shown to be a source of impairments* to the Bay-Delta. Requiring a clear *nexus* between Bay-Delta water quality and areas addressed by CALFED is implicit in the Framework Agreement.**

Information Needed (3-20): This subsection lists for further study: 1. impacts form the Natomas East Main Drain; 2. sources of contaminants of concern to the watershed; and 3. likely future impacts from increased urbanization. **Comment: We can support all of these subjects for further study, but question their inclusion in CALFED's planning process, as beyond the authorized scope of CALFED.**

Existing Activities (3-20): This subsection mentions that wild animals may be a source of pathogens to the Sacramento and American Rivers and to the Delta. **Comment: Farm Bureau endorses CALFED's support for studies to be conducted at UC Davis on this source of pathogens.**

3.6.3, North Bay Aqueduct; 3.6.4, South Bay Aqueduct; 3.6.4 Clifton Court Forebay and Bethany Reservoir; 3.6.6 Contra Costa Water District Intakes; 3.6.7 Delta Mendota Canal at the City of Tracy Intake; 3.6.9, California Aqueduct; 3.6.10 Castaic Lake and Lake Silverwood (3-23 to 3-32): These sections list proposed "priority actions" that establish land use programs for each of the areas. **Comment: Farm Bureau cannot support CALFED dictating any land use program, but can support participation by CALFED staff in existing planning processes to assure that Bay-Delta water quality issues are addressed. As noted in connection with the Sacramento and American River section, potential problems from grazing as a land use activity are also mentioned here, but there is no acknowledgement of the positive benefits of grazing as a land use activity in preference to further urbanization. Grazing activities**

should be supported by CALFED as a generally beneficial measure to protect drinking water quality, subject to reasonable management measures to prevent isolated issues of pathogen generation and streambank impacts. In view of the poor economic returns from livestock grazing, CALFED should limit its role to providing economic incentives to agricultural landowners who are able to reserve areas for grazing. Farm Bureau objects to specific proposals for Castaic Lake and Lake Silverwood, as outside the water quality purview of CALFED, unless it can be demonstrated that they contribute direct impairments to Bay-Delta drinking water quality.

3.7, Capacity for Reducing Bromide and Organic Carbon through Water Quality Program Action (3-32 to 3-48): This section notes that bromide and organic carbon generally enter the Delta drinking water supply, respectively, by mixing with the waters in San Francisco Bay and by organic residues from land runoff (particularly Delta island drainage). **Comment: Farm Bureau notes that agriculture is not identified as a significant source of bromide or organic residues, but remains concerned by the inclusion of this detailed discussion of particular drinking water impairments, without a clarification of the relationship between CALFED and the existing regulatory system. We can endorse CALFED's raising these issues as comments and issues for coordination within the context of the existing regulatory system, but we must oppose any independent regulatory role for CALFED in achieving these drinking water goals.**

Chapter 4. Mercury (4-1 to 4-20):

This chapter deals with the source, transport, and bio-availability of mercury in the Coast Range and Sierra-Fed tributaries to the Bay-Delta. Although the chapter notes that mercury has agricultural uses, agriculture is not a source of concern for mercury in the Bay-Delta region. The sources identified all relate to past mining activity in the Coast Range and Sierra, and the principle control strategy involves proper mine closure and further research into reducing bio-availability of past deposits. **Comment: Although this chapter does not raise agricultural concerns, Farm Bureau repeats its demand that the WQPP explain the role CALFED proposes to play in the multi-agency regulatory processes established to address mercury and other heavy metals contamination.**

Chapter 5. Pesticides (5-1 to 5-14):

5.1, Summary (5-1): This chapter states that "The purpose of this chapter is to establish a methodology by which toxicity linked to current pesticide usage can be eliminated. The actions taken and planned for toxicity associated with diazinon and chlorpyrifos usage will act as a general pattern for other pesticide toxicity cases that arise. The Parameter Assessment Team also identified carbofuran as a pesticide that needs to be studied." **For comment, see below, sections 5.1 to 5.3.**

5.2, Problem Statement (5-1): This chapter states that certain pesticides have been identified at levels that are reported to impair aquatic life, but the current scientific knowledge is not adequate to determine the ecological significance or extent of the impairments. **For comment, see below, sections 5.1 to 5.3.**

5.3, Objective (5-2): The objective is "[t]o manage pesticides through existing regulatory agencies and voluntary cooperation of pesticide users . . ." (5-2). **For comment, see below, sections 5.1 to 5.3.**

Comment on sections 5.1 to 5.3: The pesticide section is of great importance to agriculture. Farm Bureau endorses the objective of managing pesticides through existing regulatory agencies, and strongly supports both stringent requirements for safe use and disposal of necessary pest control products and reduction of pesticide use to the extent feasible. See also Overall Comment at end of chapter discussion.

The following is a summary of topics addressed in the chapter:

5.4, Problem Description (5-2 to 5-6): This includes: 5.4.1, Diazinon and Chlorpyrifos, addressing orchards, irrigation return water, and urban runoff separately; 5.4.2, Extent of Impairment, again addressing orchards, irrigation return water, and urban runoff separately; 5.4.3, Predominant Uses of Diazinon and Chlorpyrifos, again separating orchard dormant sprays, irrigation return water, and urban structures and landscapes. **Comment: Farm Bureau endorses the balanced treatment of diazinon and chlorpyrifos sources in this discussion.**

5.5, Approach to Solution (5-6 to 5-14): This section is divided into: 5.5.1 Priority Actions, which states that the Comprehensive Monitoring, Assessment, and Research Plan (CMARP) "will perform monitoring using both EPA standard bio-assays and ecologically important local species to screen for and to determine the temporal and spatial extent of toxicity." It further states "[t]his information should be analyzed in a risk assessment fashion to help predict likely ecological significance of exceedances." The role of CALFED is described as ". . . facilitating the development of corrective actions . . . [which] should include development of water quality targets, development of MPs to control offsite movement, financial support to help implement the most cost-effective methods, and monitoring to evaluate MP effectiveness once implemented." After acknowledging that "[p]esticide regulation is the responsibility of the DPR, while regulating water quality is the responsibility of the SWRCB and RWQCBs. . . ." it

states that "[t]he role of CALFED should be to use its combined state and federal authority, expertise, and resources in a coordinated effort with both the regulated and regulatory communities in order to help develop a comprehensive pesticide monitoring program." However, it also states that ". . . [p]esticide regulation will remain the responsibility of the agencies with regulatory authority." (5-6) Further, it states that ". . . the existing regulatory agencies' functions" are to: verify initial reports that a pesticide is causing toxicity; establish use patterns; and implement corrective actions. Specific topics discussed under 5.5 include: water quality criteria, stating that it is the role of CALFED to fund work at both DPR and SWRCB to convert the hazard assessment criteria into quantitative response limits and water quality objectives; development of Agricultural Management Practices, again stating that CALFED's role is funding research, evaluating the feasibility of supporting pollutant trade-off programs and development of urban management practices (MPs), and consulting with DPR and the UCC concerning the results of the MP implementation evaluation. **Comment: Farm Bureau supports CALFED funding for research and evaluating potential improvements in management practices, and agrees that CALFED could play a positive role in facilitating consultation among the appropriate jurisdictional agencies and industry groups regarding actual and potential pesticide impairments.**

5.5.2, Information Needed (5-9 to 5-10): This subsection calls for biological surveys to be undertaken "to determine the ecological significance of toxic pulses of diazinon." It cites the Novartis diazinon ecological risk assessment, and calls for detailed ecological studies to determine actual decreases in invertebrate populations and the length of time for recovery from exposure to the chemical. It cites an "Integration panel for the CALFED Ecosystem Restoration Program" as having set aside $1.5 million for follow-up work to determine the ecological significance of pesticide toxicity events, and states that further biological surveys and ecological assessments will be conducted through the CALFED Ecosystem Restoration Program in coordination with the Water Quality Program. In so doing, it states that CALFED will "support the efforts of DPR and the RWQCB to monitor surface water in the Sacramento and San Joaquin watersheds." **Comment: Farm Bureau endorses the appropriate support role proposed for CALFED in obtaining necessary information.**

5.5.3, Existing Activities (5-10 to 5-14): This subsection lists DPR and SWRCB as the entities with "statutory responsibilities for protecting water quality from the adverse effects of pesticides," and cites the MAA between these two agencies and a companion document, the "Pesticide Management Plan for Water Quality," as setting forth a 4-stage approach supported by CALFED. This section also lists numerous private and public sector activities addressing water quality impairments, including the Orestimba Creek (Novartis – Dow Agro) chlorpyrifos and diazinon study, and other experimental pesticide use programs and studies by DPR, Novartis, the Urban Pesticide Committee, City and County of Sacramento, Dow Agro Sciences; the Biologically Integrated Prune Systems Program (BIPS); the Biologically Integrated Orchards System (BIOS); the Biorational Cling Peach Orchards Systems Program (BCPOS); and projects by Colusa County Resource Conservation District, Glenn County Department of Agriculture, Natural Resources Conservation Service – Colusa Office, Natural Resources

Conservation Service – Stanislaus Office, The Nature Conservancy, and UC Statewide Integrated Pest Management Project. **For comment, see below, "Overall Comment."**

Overall Comment: Farm Bureau endorses the approach to pesticide use issues set froth in this chapter, in that CALFED appears to accept a role not as a lead agency, but as a provider of support and communication among agencies.

Chapter 6. Organochlorine Pesticides (6-1 to 6-9):

Prefatory Comment: In contrast to the previous pesticide chapter, in the organochlorine (OC) chapter the WQPP does not defer to the lead of state agencies and local jurisdictions, but makes recommendations that appear to be directives. Farm Bureau objects both to several specific recommendations regarding organochlorine pesticide management and to the general assertion of authority over these issues. Farm Bureau's comments below are limited to those sections that raise such concerns.

6.4, Approach to Solutions (6-4 to 6-9): This section states that "(a) likely solution to reducing transport of OC pesticides to the San Joaquin and Sacramento Rivers is to reduce the transport of sediment from the agricultural field, especially the fine-grained sediment from the west side of the Valley." It further states that irrigation sediment losses are easier to control than winter storm runoff because "The water source causing the (irrigation) runoff is controllable." **Comment: Although Farm Bureau agrees that irrigation runoff must continue to be reduced to the extent it is a contributing source of organochlorine pesticide residues adhered to sediment, we do not agree that winter storm runoff should not continue to receive attention. Winter storm runoff, as a major source, should be addressed, and the most obvious strategy should be flood control (see below).**

6.4.1, Priority Actions (6-4 to 6-7): The following priority actions are listed:

1. CALFED proposes to "support conservation efforts to help achieve the Water Quality Program objectives." The conservation efforts to be supported include a list of practices which ". . . have proven to be cost-effective methods of achieving significant water quality improvements through reducing tail water runoff that contains sediments, pesticides, and nutrients. . . ." CALFED claims that when combined in an NRCS "whole farm plan," additional benefits can be obtained, including "reduced electrical energy consumption, improved water conservation, improved water infiltration, improved air quality, improved biodiversity, and improved crop yield. Following this assertion is a list of approved "conservation practices to achieve water quality improvements," without attribution as to source, but presumably from the NRCS. **Comment: If by supporting such conservation efforts, CALFED means to underwrite the development and implementation of feasible conservation practices on a voluntary basis, this "priority action" is unobjectionable. However, if CALFED intends to endorse existing**

measures in preference to the development of improved practices, it is objectionable. Endorsing any particular slate of "BMPs" can inhibit the evolution of control measures to greater effectiveness, efficiency and feasibility. Farm Bureau does strongly advocate support for the NRCS FOTG, which incorporates evolutionary adaptive management in pesticide and land management, as well as support for private sector programs like the CURES Program developed with support from the Western Crop Protection Association.

2. CALFED proposes to "help support additional research on the widespread use of PAM (and other related erosion-control agents) as a BMP to control erosion and improve habitats." PAM is a chemical, polyacrylamide, claimed to "virtually halt(s) irrigation-induced erosion, eliminate(s) sedimentation, and keep(s) farm chemical residues on the farm." It is supposedly embraced by the NRCS Field Office Technical Guide. **Comment: We cannot support CALFED's advocating the use of any particular management tool, particularly not a chemical tool, but do not object to CALFED's supporting additional research.**

3. CALFED proposes to support "projects that will recreate the stream channels and increase the size of flow structures, such as culverts, to help achieve reduction in OC pesticides. Apparently the idea here is not to reduce the inputs of OC pesticides during the irrigation season (this is the focus of the listed BMPs in paragraph 2), but to increase channel capacity to carry moderate winter storm runoff to prevent overflow onto agricultural land. **Comment: This is a good proposal. Farm Bureau endorses any non-regulatory measure that will provide support to projects that improve channel capacity in the San Joaquin Valley, an area prone to winter flooding in even moderate storm events.**

4. CALFED advocates tying "[f]inancial incentive programs . . . to a whole-farm approach that addresses water use, water quality, soil health and erosion, and reduced chemical use," citing the West Stanislaus Sediment Reduction Plan as requiring such a connection. **Comment: Although Farm Bureau supports the West Stanislaus Sediment Reduction Plan developed by NRCS, and Farm Bureau members are participants in this excellent plan, we do not support CALFED's linking any particular form of whole-farm planning to federal programs or funding intended to serve agricultural needs. We do not support any program that requires reduced chemical use below approved and agronomically appropriate practices in the area. We can support incentive programs to encourage reduction of pesticide use, especially on a pilot program basis.**

5. CALFED proposes to "develop strategies to implement conservation measures and fund local conservation efforts . . . ." This is followed by a list of CALFED-approved measures and efforts, including: providing a permanent source of governmental funding for RCD pollution prevention and resource conservation programs; conditioning the receipt of any program benefits by agricultural water users on the implementation of conservation measures; re-examining major engineering works for contributions to additional erosion and sedimentation problems, including urban development, interstate highways, large canals, creek alignments and dams and diversions, and geologic tectonic activity; and supporting an existing delivery system of "locally led conservation" through RCDs and NRCS. **Comment: Farm Bureau opposes dictating any particular planning solution, including the NRCS whole-farm plan concept. Although we value and rely on the assistance provided by NRCS, and our members constitute both the boards and clients of RCDs, we do not advocate the endorsement of any one institution as the preferred outreach organ for conservation planning on agricultural lands in California. RCDs have broad acceptance among our members where they exist, but they are only one of several outreach organizations in California, including water districts, Farm Bureau, and commodity groups, to name a few. We support greater financial assistance to all agricultural outreach and assistance agencies and organizations and believe CALFED could serve a positive role by increasing such assistance and in facilitating greater communication and cooperation among such entities.**

6. CALFED proposes to monitor the environmental and public health impacts of PCBs in the Bay-Delta. **Comment: Inasmuch as this is an urban pollution problem, we have no objection, provided CALFED provides support and coordination for such activities by appropriate jurisdictional agencies, and does not assume a directive role.**

6.4.3, Existing Activities (6-8 to 6-9): This subsection describes the TSMP and notes that sediment sampling under the TSMP has been replaced by analysis of toxic contaminants and organisms, since "[t]he body burden of toxic material in organisms represents an integration of the routes by which that organism is exposed to pollutants." Two programs involving farmers in western Stanislaus County are endorsed: one of them is the USDA-supported West Stanislaus Hydrologic Unit Area and Water Quality Initiative Project, which aims to accelerate voluntary implementation of BMPs through locally led planning (with financial, technical and educational assistance from USDA through the West Stanislaus RCD, USDA Farm Service Agency, NRCS, and UCCE); and the other is the NRCS West Stanislaus Sediment Reduction Plan, funded by the CVRWQCB to develop benchmark conditions and solutions, provide self evaluation tools in BMPs, and establish an implementation strategy using "conservation practices defined in the NRCS Field Office Technical Guide." **Comment: Farm Bureau has no**

objection to this section, but calls for broader support for not only USDA programs, but private-sector programs that may promise broader outreach at less expense. We particularly recommend that CALFED again review the CURES program, which has recently been denied a CALFED grant. The CURES program offered to establish model farms to test innovative pesticide BMPs, to provide short courses and other educational programs through a multiplicity of media to reach both agricultural and urban pesticide users, and to develop monitoring protocols to be tested on the model farms so as to increase their reliability and usefulness for individual pesticide users.

General Comments: **Most lacking from this entire chapter is a discussion of support for flood control, despite the fact that winter storm flows and flood inundation of agricultural fields are recognized as major transport mechanisms for offsite migration of OC pesticide-laden sediments. No comprehensive solution to OC pesticide transport into the Bay-Delta can be undertaken without effective flood control measures.**

Chapter 7. Salinity Program (7-1 to 7-26):

7.1, Summary (7-1 to 7-2): The focus of concern regarding salinity (also called salt and total dissolved solids (TDS)) water impairments is the San Joaquin River Basin, although the chapter notes that agricultural drainage is also a source of salt in the Sacramento River. Although the chapter does not state that salt loads in the Sacramento River are themselves a water quality impairment, the WQPP proposes to reduce salt loading in the Sacramento River to dilute water from the ". . . more saline San Joaquin River when mixed in the Delta." (7-6, post.) The summary states that solutions may be temporary or long-term, noting that ". . . doable solution approaches are mandated by the fundamental principles guiding the CALFED Program." It further states that "[t]he technology for reverse osmosis and cogeneration is expensive, making these approaches less likely to be implemented over the short term. Source control, reuse, and integrated on-farm drainage management programs should be expanded immediately." Most importantly, it concludes that "[m]uch that can be achieved strictly through source control (exclusive of land retirement) and cycling or blending reuse already has been achieved; additional increased short-term load reductions likely will come at the expense of long-term increases in salt buildup in the San Joaquin River Basin . . . ." The summary concludes by saying that "[n]one of the actions proposed here are expected to entirely solve the salinity problems." Comment: **Farm Bureau objects to the apparent tacit assumption throughout the chapter that land retirement is the most effective and feasible method of salinity control.**

7.2, Problem Statement (7-2 to 7-3): The chapter states that "[p]ortions of rivers and the Delta are impaired by discharges [of TDS] from agriculture, wetlands, mines, industry, and urban areas." It also states that "[n]atural tidal fluctuation (and resulting intrusion of seawater) is a major source of salinity in the Delta." TDS primarily affects agricultural and drinking water beneficial uses, causing "locally and seasonally elevated salt concentrations in excess of water quality objectives . . ." and "[s]easonal and site-specific objectives for salt routinely [to be] exceeded in some [Delta] regions." The chapter further states that "[t]he quality of source waters

for various discharges must be considered. Salt loads from similar sources in different watersheds will . . . vary greatly because of the variability in the initial base salt load . . . ." It states that discharging to land is not a solution because "[a]lthough such discharges will not immediately affect surface water, salt loading of groundwater may result in significant future effects." As to the Sacramento River, it states that "[a]lthough agricultural drainage can be a major source of waste water in the Sacramento River, the generally higher quality of supply water and higher river flows result in relatively little adverse impact on Sacramento River water quality." **For comment, see below, section 7.3.**

7.3, Objective (7-4 to 7-5): The WQPP primary objective is identified as ". . . to reduce and manage salinity in the San Joaquin River and in the Delta region to meet water quality objectives and protect beneficial uses by such means as relocating points of drainage discharge, improving flow patterns using flow barriers, reducing and managing drainage water, reducing salts discharged to these water bodies, real-time management and using the assimilative capacity of the river through the DMC [Delta-Mendota Canal] circulation." This section notes that protection of existing beneficial uses can be accomplished over the short term through a variety of solutions, but many have limited long-term sustainability. It states that an important secondary objective is ". . . to implement solution approaches that do not adversely affect water quality in the San Joaquin River over the long term." **Comment: Farm Bureau endorses this acknowledgement as an excellent argument for providing a drain to permanently remove saline discharges from the Bay-Delta system. We maintain that the failure of the WQPP to give full and fair consideration to a drain reveals a counter-productive bias that illustrates why CALFED must not be allowed to assume any directive role over water quality planning processes.**

7.4, Problem Description (7-5 to 7-7):

7.4.1, Lower San Joaquin River Basin Salt Balance: This subsection states that the chief problem of the San Joaquin River Basin is the "significant import of salt into the Basin." The section notes that no such import occurs in Sacramento River Basin. It concedes that the San Joaquin River Basin has high salt concentrations and loads because the water source is the Delta, and that "[i]n the absence of barriers in the south Delta, the San Joaquin River has, at times, provided the majority of the water exported back into the San Joaquin Valley, leading to a short- to long-term recycling of salts in the San Joaquin Valley." In other words, salt occurs in the Delta because of seawater intrusion. It is exported from the Delta into the San Joaquin River, where is it recycled and concentrated so that the ultimate outflow has high salt levels. **For comment see below, section 7.4.3.**

7.4.2, Local Actions (7-6): This states that salt loading from agricultural drainage in the San Joaquin River leads to impairment of water quality in the lower San Joaquin River and south Delta. It notes that although the Sacramento River has acceptable salt concentrations, salts from agricultural sources in the Sacramento River ". . . make it a less effective source of dilution . . . ." for the Delta. **For comment see below, section 7.4.3.**

7.4.3, Sources (7-6 to 7-7): This states that supply water salts represent a large proportion of the salt in surface agricultural runoff, and that irrigation supply water quality is therefore a critical factor in determining agricultural runoff water quality. It notes that although water conservation measures such as on-farm recycling may be used, because of salt concentration such measures will result in more saline agricultural runoff than areas using no recycling. It also states that subsurface drainage will have elevated salt concentrations, and that indirect, long-term loading from groundwater to surface waters can result. Because of this, it states that it may be necessary to maintain surface agricultural runoff because such runoff can still provide dilution flow relative to the concentrated salts in subsurface drainage and groundwater accretions. **Comment: In short, the WQPP understands that the water conservation efforts that agriculture has been strongly encouraged to undertake simply defers the Delta salt loading problem, and does not solve it. This comes as no surprise to farmers. Farm Bureau members have always maintained that the only true solution to excess salinity in the Bay-Delta is to provide a drain, so that excess salt is not continually discharged into the Delta for recycling back into the San Joaquin River. Even more importantly, it is clear that the continuing pressure from urban and environmental interests for greater reduction in agricultural water supplies, based on a mythical capacity for greater conservation, does not serve the need for improved water quality in the Bay-Delta, but will lead instead to a degradation of both agricultural and wildlife environmental values in the Bay-Delta and the San Joaquin Valley. Agriculture has and will continue to adopt economically feasible and environmentally sound water use efficiency practices and technologies as a matter of good water stewardship, and to support greater productivity on the state's diminishing agricultural lands.**

7.4.4, Impacts (7-7): This states that elevated salt concentration in the San Joaquin River leads to frequent exceedance of water quality objectives established by the SWRCB to protect agricultural and other beneficial uses in the south Delta, including fish and wildlife habitat. Impacts are both direct and indirect; an example of indirect impacts is the necessity for releases from New Melones Reservoir on the Stanislaus River to provide dilution flows in the San Joaquin River. **For comment, see sections 7.4.3 and 7.5.**

7.5, Approach to Solutions (7-8 to 7-26):

7.5.1, Local Actions (7-8 to 7-14): The WQPP lists the following actions as a combination of measures that have been tried, are being tried, or may be tried to reduce salinity.

> Source Control and Drainage Reduction (7-8 to 7-9): The purpose of this proposed measure is to reduce off-site migration of salts by reducing unnecessary deep percolation, and by sequentially reusing drainage water on progressively more salt tolerant plants. This subsection states that adequate data are available from work done by the San Joaquin Valley Drainage Program (SJVDP) and UC Salinity/Drainage Program for

evaluating feasibility and effectiveness. It states that irrigation efficiencies of up to 75% have been reported from lands that are tiled, but that there is no data on untiled lands. It predicts that additional reductions in salt loading would result from implementing source control, drainage reduction, and water reuse through salt reduction plans for each source of TDS, and by providing incentives for water conservation and drainage water use, improving irrigation methods, combining sprinkler irrigation with furrow irrigation to reduce drainage volume, and using salt-tolerant crops. It states that these actions "could be encouraged" by water districts and by other larger entities, such as the Grasslands Area Drainers, and states that the CVRWQCB "could use its regulatory authority" to require these actions. It suggests that imposing additional water quality objectives upstream on the main stem of the San Joaquin River or developing TMDL allocations for affected waterbodies "would provide regulatory incentive for implementation of these actions." It does say the use of positive incentives, such as grants, low interest loans for drainage reuse, tiered water pricing and the establishment of demonstration projects "should be considered," but recommends that CALFED should support regulatory water quality objectives upstream of Vernalis, the development and implementation of BMPs, and the imposition of TMDLs, in addition to financial incentives for salt control. **Comment: Clearly CALFED is using this WQPP to aggressively promote the regulatory hammer as the chief "incentive" for implementation, despite its acknowledgement that the proposed salinity reduction actions are unproven, and that the concept of on-site salt concentration is scientifically unsupportable as a means to avoid increased salt discharges to the Bay-Delta. In this endorsement of more regulation, the WQPP ignores the fact that these actions simply defer salt damage, as noted previously by the WQPP itself (section 7.4.3). Also not discussed is the present economic unfeasibility of growing and marketing salt-tolerant crops. Farm Bureau rejects this so-called salt management measure. It would create a *de facto* land retirement program affecting a substantial portion of the farmland in the San Joaquin Valley: taking as much as 25% of the irrigated land out of production, by CALFED's own figures—an environmentally suicidal sacrifice of productive resources that are essential to maintaining the quality of life for this nation's growing population.**

Reuse (7-10): This subsection states that the SJVDP has identified three forms of agricultural drainage reuse: recycling, blending, and sequential reuse. The purpose of reuse is ostensibly to reduce salt discharge by reducing the volume of drainage water discharged. This proposal is simply a variant of the preceding source control and drainage reduction measure, adding a final step of residual salt brine distillation or evaporation for recovery of salt. There is no information on what will be

done with the salt after it is recovered. It is noted that if not "properly managed," deep percolation of the concentrated salts could affect groundwater quality. **Comment: This proposal suffers from the same defects as the previous: there is no analysis of the economics of farming salt-tolerant crops, no analysis of the feasibility of marketing salt, and no real solution to the threat of permanent groundwater impairment.**

Reverse Osmosis (7-10): Reverse osmosis is listed as "potentially a useful means of removing salts and trace elements," but economically questionable. The subsection states that it "may be economically justifiable if it produces salt and water as marketable commodities." **Comment: No potential market analysis accompanies this or any other salt concentration and separation proposal. This is simply unacceptable in an environmental review document intended to form the basis for future water quality attainment strategies. This is not solely an economic issue: if no markets exist, the proposed alternative of salt concentration is a scientific sham, because the salt will remain in the Bay-Delta system.**

Cogeneration (7-10 to 7-11): This subsection simply suggests using waste heat from the thermal generation of energy to concentrate saline drainage water and produce distilled water. It offers no feasibility analysis, and adds nothing to the above-discussed methods. **Comment: Again, the failure to provide information regarding the feasibility of this option defeats the purpose of an environmental review document. The inclusion of reverse osmosis as a salt discharge control measure without a realistic assessment of its feasibility is no environmental analysis at all.**

Integrated On-Farm Drainage Management (7-11 to 7-12): This subsection states that "[i]ntegrated on-farm drainage management systems sequentially reuse drainage water to produce salt-tolerant crops and tree biomass, and concentrate the salinity of residual brines." It states that the system operates on the principle that "drainage water, salt and selenium are resources of economic value." The only thing this subsection adds to the previous discussions is a recommendation to install tile drains to maximize collection of salty water, and to use trees (presumably salt-tolerant trees) to create wildlife habitats in "the otherwise treeless environment of the San Joaquin Valley." It states that "the San Joaquin Valley growers are interested in this integrated on-farm drainage management system and view it as a practical farming method for managing salinity." The subsection notes, again, that deep percolation of concentrated salts, if not properly managed, could affect groundwater quality. It proposes that cumulative salt build-up, a result of reuse, could

be avoided by separating and marketing the salt. **Comment: Yet again, there is no discussion of the economic feasibility of salt-tolerant crops, or of marketing salts, selenium, and other trace elements. There is no identification of a source of energy cheap enough to run the salt-concentrating process, and no consideration of the potential conflict between attracting wildlife to these farms by planting salt-tolerant habitat trees, and the need to keep wildlife out of evaporative ponds. To say that the suggested alternative lacks detailed analysis is to give it more credit than it is due. Farm Bureau finds it hard to believe that this and the preceding salt-concentration variants are offered in good faith. We would appreciate an introduction to the San Joaquin Valley growers who supposedly are "interested" in this proposal.**

Existing Activities (7-13 to 7-14):

This sets forth a rough and incomplete list of programs currently utilizing some of the previous recommendations.

Source Control and Drainage Reduction (7-13): This subsection notes that the California Agricultural Water Management Planning Act requires all agricultural water suppliers delivering over 50,000 acre feet of water a year to prepare an Information Report and identify whether the district has a significant opportunity to reduce drainage water through improved irrigation techniques. It further cites the Efficient Water Management Practice MOU as a mechanism for planning and implementing cost-effective water MPs. It states that much work in this area has already been done through drainage operation plans "under the guidance" of the CVRWQCB. The Grasslands area is the only project identified specifically—claimed to have achieved "irrigation efficiencies of just under 80%"—but it is noted that although increased efficiency has reduced and in some cases, eliminated, surface return flows, this has only slightly reduced subsurface drainage. More study is recommended. **Comment: See apparent contradiction between this endorsement of increased conservation and the preceding discussion at section 7.4.3, which questions the environmental benefits of increased water conservation.**

Reuse (7-13 to 7-14): This subsection states that a total of 3500 acres was recommended for drainage reuse in the Grassland area by the year 2000. Grassland area farmers supposedly were able to reduce salt loads discharged into the Grassland bypass by 25% as a result of recirculation and other activities. The WQPP does observe that this action requires installing (costly) subsurface recirculation systems, and notes that drainage reuse, without further treatment measures, increases soil salinity. It states, however, that sequential reuse systems are a basic component of all of the integrated on-farm drainage management systems it supports that are currently being fail-tested. **Comment: See above discussion at section 7.4.3.**

Integrated On-Farm Drainage Management (7-14): This system has supposedly been implemented on several farms in the San Joaquin Valley, through experimental and demonstration projects managed by the Westside RCD. The section claims that management systems are being developed to assess the long-term viability of such "integrated on-farm drainage management," and that issues requiring further research in connection with this system are the long-term maintenance of soil conditions, possible adverse wildlife impacts, agronomic design and management, and recovery and marketability of salts. **Comment: Again, see preceding discussion at section 7.4.3 for the internal conflict within this WQPP chapter. It appears that not enough is known to answer the most fundamental questions necessary to determine whether this is a viable salt discharge reduction practice for San Joaquin Valley farms. The clear endorsement of this hypothetical option by the WQPP without solid evidence that it is feasible and that it will result in net environmental benefits is irresponsible.**

7.5.2, Basin-wide Actions (7-15 to 7-23):

Priority Actions (7-15 to 7-19):

Water Quality Objectives (7-15): This states that CALFED should support the establishment of water quality objectives (to discourage the discharge of salts), the development and implementation of BMPs, the development of TMDLs, and financial incentives. **Comment: Farm Bureau objects to any attempt by CALFED to promote the development of additional regulatory "incentives." Farm Bureau notes that regulatory incentives already exist in abundance; what does not exist is a feasible solution to salt build-up in the Valley that does not include construction of a drain. Funding for further research and pilot implementation projects to test the inadequately-studied and questionably practicable proposals set forth in the previous subsections might be helpful, but the feasibility of such alternative solutions must first be demonstrated before any regulatory pressure is applied against farmers to encourage their adoption. We must not allow CALFED to use regulatory compulsion to make guinea pigs of San Joaquin Valley farmers for testing interesting but unproven salt reduction methodologies.**

Improved Quality of Supply (7-15 to 7-16): This subsection acknowledges that improving the quality of the waters supplied to the San Joaquin Valley from the Bay-Delta is the most certain method to lower salt concentrations in Valley drainage. It further notes that not only would the salinity of surface runoff be lower over the short term because of reduced salt application to land, but that the quality of subsurface drainage

would also improve and, over the long term, there would be a net improvement in Delta water quality. It states that some physical solutions would be required, including such measures as conveyance alternatives (isolated facility or through-Delta improvements, relocation of drainage from the Delta islands, and South Delta and Delta Region circulation barriers.) There is a brief discussion of the defects previously noted in some of these conveyance alternatives, including the South Delta barrier problem of increasing salinity at the export facilities, which could add to the treatment costs for exporters. The subsection recommends that there be further study to identify drainage reduction measures for Delta islands, potential drainage discharge relocation projects, and water quality benefits/ecological effects of South Delta barriers. **Comment: Although improving supply water quality is clearly a physical solution to the excess salt concentration created by the present system of recirculating salt between the Delta and the Valley—certainly better than the previously discussed water reuse and salt marketing pipe dreams—the issue has been in discussion for some time, and there are substantial political forces aligned against all of the proposals set forth above. CALFED should provide positive leadership by undertaking a reasonably complete and specific environmental review and comparison of the feasibility of all alternatives in this EIR/EIS, including alternatives for constructing a drain system to bypass the Bay-Delta.**

Real-Time Management (7-16 to 7-18): As discussed in this subsection, a real-time water quality management system adjusts the timing of discharges and reservoir releases to make the best use of the dilution effect of stored water. In some form this is already being practiced in the Valley, but this section proposes combining real-time management with drainage recycling on farms. It states that the Bureau of Reclamation has developed a planning model which "suggested" that by combining drainage recycling facilities with further construction of regulating reservoirs to boost the total capacity to 4.3 million cubic meters, water quality objectives could be met at all times, assuming perfect forecast and response to receiving-water assimilative capacity, and constant water quality for irrigation water and groundwater pumpage. CALFED's "recommended action" does not endorse this real-time management proposal, but calls for "coordination among diverters and dischargers and other beneficiaries," as well as incentives for coordination and implementation of measures that help manage salinity in the San Joaquin River. **Comment: Farm Bureau takes no position on the feasibility of this or any other option, but notes that since it does not require permanent recycling installations that could result in saline buildup that would take land out of production, and does not require dependence on the unproven economics of salt-tolerant crops or the**

marketing of salt, it at least appears to have some potential for real world application, although the need to construct further facilities will be a significant problem.

Recirculation of Delta-Mendota Canal Water (7-18 to 7-19): This proposal, supposedly put forward by "south Delta stakeholders," would temporarily store drainage water from the Grassland area from March through April 15th, and circulate DMC water during drainage release from April 16th to May 15th, to meet the pulse flow requirements at Vernalis, and improve water quality in the south Delta. The WQPP states that recirculating water in the Delta in combination with south Delta barriers may help improve water quality in parts of the Delta. The WQPP "recommended action" is further study, stating that this is controversial because it may violate state and federal policies against water quality degradation (although some CALFED agencies disagree). It notes that this may significantly increase energy costs for facility operations, and may require improvements in existing conveyance facilities. Since this proposal is apparently only at the discussion draft stage, the recommendation is to wait for a detailed proposal before numerical modeling and simulation studies are undertaken to examine the benefits and impacts. **Comment: See General Comments below at the end of this chapter analysis.**

Salt Disposal (7-19): This is the only discussion of an out-of-valley drain or other conveyance mechanism to convey saline water to the Pacific Ocean. It is described as "very controversial, with suspected negative ecological impacts." It is not recommended as a priority action. **Comment: See General Comments below at end of this chapter analysis.**

Information Needed (7-20):

Water Quality Objectives (7-20): The WQPP recommends support for monitoring and additional studies to determine the effects of elevated salt concentrations on beneficial uses, to provide the information necessary to establish salinity for water quality objectives. **Comment: Farm Bureau generally supports research and monitoring to develop an accurate understanding of the salt transport cycle between the San Joaquin Valley and Bay-Delta. However, Farm Bureau opposes additional water quality objectives as unnecessary and counter-productive. There is no demonstrated need for additional regulatory pressure to achieve salinity reduction, and it is clear from the rudimentary analysis of proposed alternatives that these problems are too poorly understood to approach through regulation. Farm Bureau believes that heightened objectives would simply force some farmers out of**

business. Until demonstrably feasible salinity reduction measures are developed, reviewed and discussed in a public process, there should be no additional regulatory pressure applied to San Joaquin Valley farmers.

Improved Quality of Supply (7-20): This refers the reader to the "Programmatic EIS/EIR" for information on CALFED alternatives; to the DWR draft EIR/EIS for information on south Delta barriers; to the Interim South Delta Program (ISDP-DWR) final draft EIR/EIS (not yet released) for hydrological data; and to DWRDSM modeling performed subsequent to the release of the DEIR/EIS, for salinity changes due to ISDP for 71 years of hydrology. It states that no detailed feasibility analysis has been conducted for the DMC circulation proposal. **Comment: This multiplicity of documents referred to, some of which are apparently not yet released, points to the considerable data gap that pervades the CALFED Water Quality Program Plan EIR/EIS. The reviewer is also referred to unidentified "existing CALFED reports," which supposedly have data on water quality and the quantity of agricultural water supply from the Delta. This "go fish" approach highlights the gross inadequacy of the data provided in this EIS/EIR as a basis for public review and analysis of the relative benefits of the various proposals. The EIS/EIR fails miserably in every regard as a tool for determining the factual and scientific basis for its assertions, and for weighing the merits of its recommendations.**

Real-Time Management (7-20 to 7-21): This subsection notes the data gaps identified in the previous discussion of the proposal, but points out that the proposed real-time water quality management system is improved over current real-time management systems by use of automatic electronic water quality sensors; a continuous and integrated system of data error checking and validation; addition of control systems that can be used to manage agricultural wetland drainage water flow and water quality; institutions that coordinate actions and responses of regulators, operators, and other public and private entities; and a long-term commitment by agencies to support real-time data collection in water quality forecasting. **Comment: Although this subsection is included under "information needed," it fails to state exactly what information is needed to guide further consideration of the proposal, or attempt to fill the data gaps so as to allow fair consideration of real time management as a salinity reduction tool.**

Recirculation of Delta-Mendota Canal Water (7-21): **Comment: This adds nothing to the previous discussion.**

Salt Disposal (7-21): **Comment: This also adds nothing to the previous discussion.**

Existing Activities (7-21 to 7-23):

Improved Quality of Supply (7-21 to 7-22): This discusses the physical solutions set forth under the previous discussion of improved quality supply, noting that the operation of south Delta barriers can help improve water quality in some locations. It also notes that the ISDP proposes to install flow-control structures to improve water levels and circulation in the south Delta channels to eliminate null zones and to correct water circulation problems that result from SWP and CVP operations. It notes that all three CALFED conveyance alternatives would improve water quality, but that these conveyance alternatives are not discussed in this report. **For comment, see General Comments, below.**

Real-Time Management (7-22): (This is lumped in with above subsection—an editing error). This subsection states that opportunities for real-time management in drainage discharge "are being explored" in a project funded by CALFED and conducted by the SJRMP-WQS. Models are cited as suggesting "considerable opportunity." **For comment, see General Comments, below.**

Salt Disposal (7-23): This cites the SWRCB draft EIR for Implementation of the 1995 Bay-Delta WQCP, November 1997, ch. VIII as stating that there are two major options for disposal of salt: out of valley export and discharge through San Joaquin River. It notes the ongoing litigation against Reclamation to provide drainage facilities, and the MOU between Westlands Water District, Reclamation, and the SWRCB to do the environmental documentation for evaluating alternatives for disposal through a constructed drain. It states that Reclamation will be "reinitiating" this process. **For comment, see General Comments, below.**

7.5.3, Evaluation of Other Sources of Salinity (7-23): This section calls for further study of non-agricultural sources of salt discharges and their impacts. These include: urban runoff; waste water treatment plants; industrial discharges; wetlands; mine drainage; and "other, such as dairies and fertilizers." It also calls for further quantification of salt concentration effects on beneficial uses, including drinking water and human health impacts, industrial use, agricultural uses related to productivity and economics, and environmental uses and impacts related to aquatic habitat. **For comment, see General Comments, below.**

Approach to Solution (7-25 to 7-26):

Priority Actions (7-25 to 7-26): This calls for evaluating and ranking sources of salt based on existing reports, including quantification of salt loads as nonagricultural sources by type; quantification of salt loads by region; identification of the location and magnitude of beneficial use impairment; identification of data gaps; and identification of specific approaches to reduce loading for each type and area of discharge. **For comment, see General Comments, below.**

Information Needed (7-26): This states that the CVRWQCB is compiling load and concentration data for all San Joaquin River Basin sources of salt. It calls for similar data to be compiled for the Sacramento River Basin and the Delta. **For comment, see General Comments, below.**

General Comments on the Salinity Chapter: Farm Bureau supports the call of the draft EIS/EIR for additional studies on the processes leading to excess salt loading of drain water and groundwater; accurate identification of sources; and impacts on beneficial uses. However, Farm Bureau contends that the substantive content of the salinity alternatives analysis is clearly driven by political, not water quality, concerns. In particular, we must emphasize the need for a full analysis of physical drain alternatives to be given full and equal weight with the non-drain, speculative technological solutions dealt with at length in this chapter, and must oppose any regulatory encouragement of these recirculation and reuse alternatives unless and until they are proven, by actual experience on the ground: 1) to be economically feasible, and 2) not to impair either the short- or long-term agricultural use and productivity of both San Joaquin Valley and Delta lands. We are certain that, in view of the limited amount of information currently developed for the salt concentration alternatives discussed in this chapter, any reasonable analysis at this time must conclude that the construction of a drain is the most cost-effective, physically successful, and environmentally sound means to solve the impairment of Bay-Delta water quality by excess salt. It is also clear, from information currently available, that only the construction of a drainage facility to allow saline return flows to bypass the Bay-Delta can safely be projected to be a permanent solution to salt buildup within the San Joaquin Valley and long-term salt impairment of Bay-Delta beneficial uses. Farm Bureau reminds CALFED that salt is a natural constituent of the hydrological system of the San Joaquin Valley and Bay-Delta region. The impairment of beneficial uses by saline drainage has been caused by the interference of man with the hydrological transport of salt through the Bay-Delta system, causing inadvertent recirculation and concentration. A separate drain facility would therefore restore the natural system, rather than further impair the natural system with additional artificial salt concentration.

Chapter 8. Selenium (8-1 to 8-18):

8.1, Summary: This chapter recognizes that selenium is a natural element in the San Joaquin Valley, and that adverse water quality impacts related to salinity is chiefly caused by the

"accelerated mobilization and transport of selenium" due to "exposing selenium-bearing formations to greater than natural erosion from large flood events, road building, over-grazing, mining, and irrigated agriculture." **Comment: Most of this chapter recounts the history of selenium contamination problems in the Valley, which is too well known to require repetition. The salient provisions of the chapter, for analysis of water quality protection, are in the discussion of "priority actions" in the subsection dealing with agricultural sources: subsection 8.5.1 (8-8). See further comment under subsection 8.5.1.**

8.5, Approach to Solution (8-8 to 8-16):

8.5.1, Agricultural Sources (8-8 to 8-16): The following approaches to abating agricultural sources are listed by the EIS/EIR: drainage treatment, phytoremediation, selenium marketing, active land management, upper watershed management, tradable loads, land retirement, source control and drainage reduction, timing of release, drainage reuse, long-term solution to salinity, and integrated on-farm drainage management and salt preparation. The "drainage treatment" and "phytoremediation" discussions (8-9) list various methods of removing selenium from agricultural drainage water, noting that these are hypothetical options at this time, needing further research before they can be considered realistic alternatives. Similarly, under "selenium marketing" (8-9 to 8-10), the WQPP simply says that selenium is valuable, and that further marketing opportunities should be explored, with no citation to evidence that a commercially feasible method for selenium exists. The "active land management" discussion (8-10) states that CALFED should encourage the development and use of alternative cropping and irrigation practices. The "upper watershed management" discussion (8-10) calls for determining the specific contribution of upper watershed areas, identifying and evaluating remediation alternatives, and, ultimately, assisting with implementing selected alternatives to reduce high selenium runoff from upper watershed areas. "Tradable loads" (8-10) are mentioned as a solution that should be encouraged and supported, as another economic incentive. **Comment: The discussion of selenium reduction alternatives shares the myopia of the preceding chapter on salinity: the document blithely embraces such unproven technological fixes as selenium separation on-site, and the development of a market for the allegedly valuable element, with no citation to any data supporting an economically feasible separation process, or evidence that the market value of this common substance would support on-farm separation technology. Indeed, none of the field and laboratory data that has been generated by the considerable governmental investment prompted by the Kesterson disaster has produced any economically feasible method for commercial selenium extraction from drain water. It is curious, to the point of perversity, that the WQPP fails to mention the construction of the long-promised drain as an alternative worthy of further research. Farm Bureau objects to any discussion of drainage water quality improvement alternatives that do not include a fair treatment of the drain option: to omit such analysis is to politicize a document that should be driven by science, and makes a sham of the EIS/EIR.**

Land Retirement (8-10 to 8-12): The WQPP states that land retirement is not a specific objective of the CALFED water quality program but "is a tool available to help meet the program's objectives in the San Joaquin Valley . . . ." It states that several aspects need to be understood. These are: 1) land retirement along the west side of the San Joaquin watershed is included in the CALFED No Action Alternative, to reflect actions already planned by the federal government under the CVPIA which would occur irrespective of the CALFED program; 2) several other water quality management tools would be "exercised to their fullest extent to correct water quality problems" from selenium prior to initiating any land retirement under the CALFED program (examples are drainage treatment and phytoremediation; and 3) only after other tools are exhausted would CALFED consider implementing a program to retire lands, and then it would be under a tiered approach, beginning with up to 3,000 acres of land with the greatest concentrations of selenium in agricultural drainage, followed by more land retirement only if this 3,000 acres was still inadequate to meet program goals. If this is inadequate, the WQPP proposes to expand retirement up to a total of 37,400 acres with high selenium concentrations. The discussion emphasizes that for purposes of CALFED environmental analysis, the soil quality (of lands to be retired) is not considered a constraint. **Comment: Semi-retirement alternatives which apparently have been proposed under the Active Land Management Program of the San Luis-Delta-Mendota Water Authority are also discussed, including compensated rotational fallowing, cropping changes and irrigation system alteration. The discussion notes that even after these measures are implemented, "permanent retirement of some lands may still be needed." Clearly, the need to retire land from use because of selenium loading is a self-imposed constraint created by CALFED's refusal to consider the viable alternative of a constructed drainage facility. Selenium is a naturally occurring element in the San Joaquin Valley, and the unnatural toxic effects that have been exhibited have been caused by concentration, because drainage has been prevented. It is not an inherent impact of farming, but an artificial impact caused by preventing the transport of agricultural drainage out of the Valley. The chapter itself notes, under a discussion of "information needed" related to land retirement on page 8-13, that "[l]and retirement may not be a permanent solution to the problem of managing selenium, as land retirement retains the existing selenium in the shallow groundwater, where unforeseen future rises in the water table could bring selenium to the surface or discharge it to regional waterbodies. It also notes that there is a Land Retirement Technical Committee (8-14) working under the joint state-federal interagency, SJVDIP, which is due to issue a report in "early 1999." In short, land retirement is not an environmentally sound solution to selenium concentration. To the contrary, land retirement maximizes the loss of environmental values in the Bay-Delta system by not only ensuring that selenium concentrations will remain a potential source of water quality degradation in the Valley and Delta, but by destroying the productive base of irreplaceable agricultural resources. Despite these facts, and contrary to its assertion that land retirement is not a specific objective, the WQPP repeatedly turns to various forms of complete or partial land retirement as the only feasible option for selenium abatement. It is abundantly clear that the interests that prevailed in this draft EIR/EIS do short-**

sightedly embrace land retirement as a specific objective, however unsound it may be environmentally. Farm Bureau opposes land retirement as a solution to selenium impacts.

8.5.2, Refineries (8-16 to 8-18): This chapter discusses the discharge of selenium from refineries, calling for a goal of 90% reduction by 2001. **Comment: The description of sources of selenium at subsection 8.4.1 (8-4) states that selenium loads from oil refinery and municipal treatment plant activities result in the most significant impacts in the North Bay area and that, overall, the river loading of selenium (agricultural source loads from the San Joaquin Valley) infrequently reaches the estuary, "as flows are generally insufficient and south Delta diversions draw most of the San Joaquin River water throughout the year." It states that only during heavy spring runoff does a significant portion of this load reach the central Delta and North Bay areas. This fact adds considerable weight to our argument that land retirement should be considered the least environmentally sound alternative for addressing selenium concentrations in agricultural drainage. By CALFED's own admission, agricultural selenium sources are an insignificant impairment of Bay-Delta water quality. Farm Bureau therefore proposes a reasonable alternative to Valley land retirement: as a mitigation for the selenium impacts of refineries and municipalities in the North Bay area, these sources should cooperate in assisting with financing a separate drainage facility for riverine selenium loads, to decrease selenium concentration in the San Joaquin Valley and to reduce the total quantity of load to tolerable levels in the Bay-Delta region. Certainly, this should at least be given serious analysis as a feasible type of pollutant trading, based on the experience of the Grasslands project, praised by CALFED in the WQPP.**

Chapter 10. Turbidity and Sedimentation (10-1 to 10-8):

10.1, Summary (10-1); 10.2, Problem Statement (10-1); 10.3, Objectives (10-1): These three subsections are lumped together because of their brevity. CALFED states that sedimentation has been linked to declining habitat in upper watershed streams, which could cause long-term declines in certain species of fish. It states that the purpose of this section is to identify existing and potential turbidity and sedimentation problems, scientific and technical information needs, research and modeling, targets and performance measures, and—most importantly—management actions to reduce, eliminate, or prevent ecological impacts. Areas covered in the chapter are San Francisco Bay, the Delta, Sacramento River watershed, and the San Joaquin River watershed. The objective is ". . . to reduce sediment in areas to the degree that sediment does not cause negative impacts on beneficial uses." CALFED concedes that there is a balance between necessary sediment in Delta water and an amount that is harmful. **Comment: As discussed more fully below, Farm Bureau objects to the breadth and intrusiveness of the turbidity and sedimentation proposals set froth in the WQPP, as well beyond the scope of the Framework Agreement.**

10.4, Problem Description (10-2):

10.4.1, Delta Region (10-2): This states, "[h]igh turbidity and sedimentation are not ecological water quality concerns in the Delta . . . Turbidity decreased and water clarity (secchi disk depth) increased in the Delta from 1970 to 1973. **Comment: Unless CALFED can demonstrate a connection between upper tributary water quality issues and the impairment or threat of impairment of water quality in the Bay-Delta region, upper tributary issues are beyond the scope of the Framework Agreement. The Framework Agreement provides that the purpose of CALFED is to establish "a comprehensive program for coordination and communication" for the purpose, among others, of "development of a long-term solution to fish and wildlife, water supply reliability, flood control, and water quality problems in the Bay-Delta Estuary" (emphasis added—Framework Agreement). As clarified in the 1994 Principles for Agreement on Bay-Delta Standards, etc. document specifically dealing with water quality standards and operational constraints, CALFED's coordinating role related to water quality is ". . . to provide ecosystem protection for the Bay-Delta estuary . . . ." (emphasis added). Therefore, if there is no apparent present impairment or clear threat of impairment of Bay-Delta water quality, there is no basis for CALFED intervention, even in a coordinating and consultative role, let alone authority to issue directives to state water quality agencies.**

10.4.2, Bay Region (10-2): This subsection states that "[h]igh turbidity is also not an ecological water quality concern in central and south San Francisco Bay, San Pablo Bay, or Suisun Bay . . . ." High turbidity is described as a "natural attribute of this estuary, and thus not a water quality concern in this area." In the case of sediment, this subsection states that there may be a problem, but it is a problem of declining sediments, rather than excessive sediments. The reader is referred to the further discussion in the CALFED Ecosystem Restoration Program Plan. **Comment: Clearly, if there is no sedimentation impact on Bay-Delta water quality from tributaries to central and south San Francisco Bay, San Pablo Bay, or Suisun Bay, under the Framework Agreement and 1994 Principles for Agreement, there is no role for CALFED in dealing with sediment issues on such tributaries.**

Napa River, Petaluma River, and Sonoma Creek (10-2): This subsection states that turbidity is a water quality concern in the Napa River, Petaluma River, and Sonoma Creek, and that the sources are both agricultural and urban runoff. **Comment: Since these are tributaries to San Pablo Bay, and San Pablo Bay has no turbidity or sedimentation problem (in fact turbidity is a "natural attribute of the estuary"), there is no basis for CALFED to address turbidity or sedimentation in these waterbodies. Moreover, as noted in the text of the WQPP, these rivers are listed under section 303(d) of the Clean Water Act, and any turbidity issues will be appropriately addressed by the Regional Water Quality Control Board and State Water Resources Control Board pursuant to section 303(d) of the Clean Water Act.**

10.4.3, Sacramento River Region (10-3 to 10-4):

Upper Fall River (10-3): This subsection states that the Fall River is listed under Clean Water Act section 303(d) as impaired by "anthropogenic" sediment loads and by sedimentation in the upper Fall River. It states that the "erosional soil loading from adjacent lands has resulted in 2-4 feet of sand deposition throughout much of the stream between Navigation Barrier and Island Road bridge . . ." and that sources include ". . . forestry activities, ranching and grazing, channelization of the Bear Creek meadow, and roads." It states that relative contributions of sediments are 45% from the watershed above Spaulding Bridge . . . 41% from Bear Creek meadow, and 14% from riverbank erosion below Spring Creek."
Comment: These facts are asserted without attribution as to scientific source, and demonstrate the inadequacy of the environmental review producing this document. CALFED has completely mischaracterized the source and nature of the sediment problem in the Fall River. The only scientific field research on the Fall River is the work done by Dr. Michael Fitzwater and Dr. Jack Mrowka of Sacramento State University, who performed a multi-year study on the Fall River involving channel transects, mapping of sources and monitoring of the movement of the sediment plume. Drs. Fitzwater and Mrowka determined that the plume of sediment in the Fall River is 40,000 cubic feet in size, and that it is caused by catastrophic outwash from upper watershed slopes denuded by a forest fire in 1977. Drs. Fitzwater and Mrowka have concluded that the Fall River is incapable of removing these sediment deposits through natural processes, and that the only appropriate method of restoring the Fall River's world famous trout habitat is to mechanically remove the sediment plume by dredging. Drs. Fitzwater and Mrowka further determined that the total anthropogenic sediment load from adjacent properties, including all uses, agricultural and non-agricultural, is approximately 1,000 cubic yards per year, and that management measures to control this sediment would produce no significant beneficial effect on the present load of sediment in the Fall River. Farm Bureau endorses implementation of reasonable voluntary measures by adjacent landowners to control these insignificant sediment sources from their activities, but objects unequivocally to CALFED's ignorant attribution of the current sediment problem in the Fall River to such adjacent agricultural activities. Moreover, this issue is clearly beyond the scope of the Framework Agreement. The Fall River is not a direct tributary to the Sacramento River. The Fall River is a tributary to the Pitt River, and any sediment that can escape the Fall River would be captured by a dam on the Pitt River before it could ever reach the Sacramento River. Therefore, there is no present or potential threat of impairment of water quality in Bay-Delta from Fall River sediments. CALFED clearly has no authority to intervene in Fall River issues under the Framework Agreement or Principles for Agreement on Bay-Delta Standards. Farm Bureau, however, would not object to CALFED assisting financially in the dredging of the Fall River to

remove the fire-related sediment plume, or to its assisting agricultural landowners to implement voluntary sediment-control practices.

Humbug Creek (10-3): Humbug Creek is identified as a source of sediment because of erosional soil discharges from the Malakoff Diggins Mine complex. **Comment: This is not an agricultural issue, but our general objection to CALFED jurisdiction nonetheless applies. There is no potential impact upon Bay-Delta water quality from Humbug Creek.**

10.4.4, San Joaquin River Region (10-4): Tributaries listed under this heading are the Tuolumne River, Merced and Stanislaus Rivers, and the Cosumnes River. Agricultural land use practices and in-channel mining activities are identified as the major sources of fine-sediment loading on the Tuolumne River, Merced and Stanislaus River, but forestry activities are identified as the source for the Cosumnes River. **Comment: Again, although Farm Bureau endorses CALFED financial assistance to agricultural landowners to support reasonable management measures that may reduce controllable sediments from agricultural activities in these watersheds, this does not appear to be an issue over which CALFED should have any directive role, because of the lack of impact to the Bay-Delta.**

10.5, Approach to Solution (10-5 to 10-8): **Comment: The recommendations set forth in this subsection are unsupported by any nexus to Bay-Delta water quality or by sound science, and are opposed by Farm Bureau, as more fully discussed below.**

Bay Region (10-5): The recommendation is to implement BMPs for agricultural lands to reduce sediment in the Napa River.

Sacramento River Region (10-5 to 10-6):

Upper Fall River (10-5 to 10-6): The WQPP recommends: 1) implementing stream and meadow restoration and protection at priority sites in the Bear Creek and Dry Creek watersheds, including fencing livestock, restoring channels, and revegetating meadows; 2) implementing restoration and protection measures for Bear Creek meadow between Spaulding Bridge and the Fall River confluence; 3) implementing a plan to selectively remove fine-sediment deposits (this does state that mechanical removal is needed); 4) implementing erosion control BMPs on watershed lands, including installation of livestock exclusion fencing on part of the Fall River to reduce bank erosion; 5) implementing a monitoring program. The section further calls for target and performance measures that require watershed landowners to "reduce or element any ecological impacts . . . due to fine-sediment loading . . . from anthropogenic sources." **Comment: CALFED is proposing to require cattle ranchers in the Fall River area to fence their cattle out of the creek and to be held to rigid sedimentation targets ("eliminate" is the**

stated performance standard), despite the fact that the only credible scientific analysis of the Fall River sediment problem establishes that agricultural activities are not the source of the problem. The Fitzwater-Mrowka study determined that the banks of the Fall River are clay, and are not the source of the sand sediment deposits in the river. Therefore, river access by cattle is not a cause of the sediment impairment. Moreover, many of the landowners have voluntarily installed riparian fencing to prevent cattle access to the river. CALFED has no science and no jurisdiction to support its demands. Farm Bureau vehemently objects to CALFED's assertion of authority. Its ill-conceived and scientifically baseless action "recommendations" will surely harm our members on the Fall River if they are achieved through regulatory mandates. We encourage support for voluntary activities, but cannot and will not acquiesce in any regulatory compulsion in this area.

San Joaquin River Region (10-6 to 10-8): As for the Sacramento Region, specific recommendations imposing considerable burdens on agricultural landowners are proposed for the Tuolumne River, Merced, and Stanislaus Rivers, including implementing land use BMPs, combined with targets and performance measures to hold landowners accountable for sediment production from their property. In addition, flood plain management is proposed for the Tuolumne River. The flood plain proposal is ". . . to help diminish the negative impact of fine-sediment loads from anthropogenic sources by facilitating natural deposition on flood plain surfaces." (i.e., allow flooding on farmlands.) **Comment: Farm Bureau objects to CALFED's assertion of authority over these issues, and particularly to the suggested imposition of involuntary BMPs on landowners. As noted above, we encourage CALFED to adopt a supportive role, providing necessary financial assistance for the voluntary adoption of BMPs. We also strenuously object to the flood plain management proposal, since it will clearly allow farmland to be flooded; this will inevitably cause more off-farm migration of sediment-linked pollutants rather than less, and will result in unconscionable economic harm to the farm families in the flood zone of the Tuolumne River.**

10.5.2, Information Needed (10-8): The only information needs identified are further documentation of sediment bedload transport rates. **Comment: Apparently CALFED thinks it needs no further information on the potential benefits and adverse impacts, both ecological and economic, of its flood-the-farms recommendation. This represents a surprising disregard for human rights and for the welfare of farm families. Farm Bureau registers its adamant objection to the San Joaquin flood zone expansion proposal.**

Chapter 11. Toxicity of Unknown Origin (11-1 to 11-7):

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Chapter 11. Toxicity of Unknown Origin (11-1 to 11-7):

Agriculture is not identified as a specific cause of toxicity of unknown origin, but there will clearly be an effect on agricultural pesticide use. The chapter identifies, as a priority action (11-5), examining land use in the watershed to determine potential contaminants, including cropping patterns and pesticide/fertilizer application patterns. **Comment: Farm Bureau welcomes financial and logistical support for research to determine the existence, identification, source, and feasible control measures for toxicity of unknown origin. We encourage continued close cooperation with the pesticide industry representatives that have already established a commitment to environmental stewardship, including Novartis, Dow Agro, and the Western Crop Protection Association.**

Chapter 12. Implementation Strategy (12-1 to 12-25):

12.1., Introduction (12-1 to 12-3): The introduction states that the WQPP will be conducted in stages, with the first stage commencing in the year 2000 and extending for approximately seven years. Although the introduction states that "[s]uccess in achieving the CALFED water quality objectives will depend on close coordination and collaboration among agencies with jurisdiction over water quality and stakeholders . . . ." it appears clear that the CALFED WQPP is intended to establish both water quality goals and the implementing actions necessary to reach those goals, and that the role of established jurisdictional agencies will simply be to see that CALFED directives are implemented. **Comment: Because CALFED's water quality decisions are generated outside the appropriate public planning processes, the public is not able to participate in the decisions, either to ensure that management decisions are based upon sound science (see the Fall River example), or that economic issues are fairly considered. Farm Bureau cannot overemphasize its objection to CALFED's assumption of any authority to dictate actions to be carried out by or through appropriate water quality jurisdictional agencies. Such extra-legal intervention infringes on the rights of citizens under both state and federal Administrative Procedure Acts to participate fully, with notice and opportunity to be heard, in all regulatory decisions affecting them.**

12.3, Principles (12-3 to 12-4): This states that the following principles will be followed throughout implementation:

1. "The Water Quality Program emphasizes voluntary, cooperative efforts . . . but will work with regulatory entities to ensure program goals are accomplished . . . ." **Comment: *It is clear that CALFED intends to use* regulatory mechanisms to implement the WQPP.**

2. "Positive mechanisms will be used to assure accountability . . . ." **No comment necessary. This is clearly regulatory language.**

3. "To the extent possible, existing water quality programs and capabilities will be used to meet Water Quality Program goals and objectives." **Comment: "To the extent possible" appears to indicate that CALFED intends to go beyond existing water quality programs. This indicates,**

at the least, that CALFED believes it has the authority to impose a third tier of governance over and above existing programs. It does not.

4. "Agency regulatory responsibilities will be coordinated to provide appropriate incentives . . . There will be no change in existing regulatory authority." **Comment: Although this states there will be no change in existing regulatory authority, principles 1, 2 and 3 make it quite clear that CALFED intends to impose a super-authority over existing regulatory bodies. This a change, and a statutorily unauthorized change, in existing authority.**

5. "Independent peer review and evaluation . . . will be used to prevent and correct water quality problems, and to provide recommendations for adaptive management." **Comment: The appropriate process for adaptive management is already established by the Porter-Cologne Water Quality Control Act, Clean Water Act, and the implementing regulations of the SWRCB and RWQCBs. Farm Bureau objects to any role for CALFED in peer review and in evaluating management measures authorized by the State and Regional Boards beyond the ability to provide comment, to the same extent and in the same forums available to any member of the public.**

6. "The Water Quality Technical Group, comprised of agencies and stakeholders, will be utilized to help plan and implement the Water Quality Program, and to help establish interim water quality targets . . . ." **Comment: The Water Quality Technical Group is not established by statute and cannot be allowed to override statutorily-authorized processes. Farm Bureau objects to any deliberations, decisions, or actions by this unelected, unauthorized, and ill-defined group of agencies and stakeholders, that may diminish the procedural or substantive rights of private citizens, or impair the productivity of farms and ranches. As shown by the Fall River proposal, the public cannot rely upon CALFED to develop good science or to implement sound water quality control measures without close public scrutiny and input from knowledgeable affected parties.**

12.4, Early Implementation Actions (12-4); 12.5, Stage 1 Actions (12-4); 12.6, Linkages (12-4 to 12-6): These subsections collectively list Water Quality Program actions that are scheduled to take place from the year 2000 through 2007. The early actions are set forth in a Table 3 (12-17 to 12-18). These are all supposed to be conducted in the first year, and consist primarily of studies and assessments, with the exception of implementing controls on discharges from water craft in the Delta and tributaries, and from mines. However, one salinity action affecting agriculture is to be implemented in this first year. This is, to [u]tilize the assimilative capacity of the river [San Joaquin River] to reduce TDS buildup in agricultural soils . . . [d]uring

high flow periods . . . ." Stage 1 actions are set forth in a Table 4 (12-19 to 12-25). These include such projects as "the continuous process of developing and managing the Water Quality Program" by doing project-level environmental documentation and permitting as needed, developing diazinon and chlorpyrifos hazard assessment criteria; supporting the implementation of BMPs; and monitoring to determine their effectiveness. For salinity, develop and implement activities to improve supply quality; develop and implement a management plan to reduce drainage and total salt load to the San Joaquin Valley; encourage source reduction programs, including tiered pricing, expansion of drainage recirculation systems, land management, and land retirement (emphasis added); conduct pilot projects to evaluate the feasibility of water reuse through agroforestry; study the feasibility of desalinization methods; study cogeneration desalinization; and implement real-time management of salt discharges. For sediment, it proposes to conduct selenium research to fill data gaps to refine the regulatory goals of source control actions [whatever that means]; refine and implement real-time management of selenium discharges; expand and implement source control and reuse programs; and coordinate with other programs. For sediment reduction for organochlorine pesticides, the following is recommended: participate in implementation in the USDA sediment reduction program; promote sediment reduction at specific sites; determine source areas and ecological impacts of OC pesticides and draft a correction action strategy; implement stream restoration and revegetation; quantify and determine the ecological impacts of sediments and implement corrective action; coordinate with the ecosystem restoration program on sediment needs. For nutrients, it proposes to complete studies on the dissolved oxygen (DO) sag in the San Joaquin River; define and implement corrective actions; encourage regulatory activity to reduce nutrients discharged by unpermitted dischargers [hit the dairies?]; develop testing; and study the effects of nutrients on beneficial uses. Other general actions for drinking water improvements include: control TOC contributions through control of sources, including agricultural runoff; control pathogens through control of cattle and urban sources; study impacts from wild animals; relocate the Barker Slough intake; address water quality in terminal reservoirs; convene a Delta Drinking Water Council in a pubic forum to consider relevant technical data and consideration of solutions to identify public health issues. For turbidity and sediment, it proposes: implement protection actions in the upper watershed; implement erosion control BMPs in the upper watershed; perform quantitative analysis of river sediment loads, budgets, and sources.

Comment on implementation actions: **It is inconsistent with CALFED's claim that it will work only through existing authorities, for it to propose such a concrete and detailed list of actions that must be implemented within specified time periods. Particularly strange is the front-loading of actions and the rear-loading of science in all of the recommendations. Farm Bureau objects to the entire proposal for Early Implementation Actions as beyond the authority of CALFED, and contrary to any rational planning process.**

12.7, Management and Governance (12-6 to 12-15): The introductory paragraph says that the key to successful Program implementation is the development of a long-term governance structure for CALFED to manage and oversee all aspects of the program, including staged decision making and adaptive management. It acknowledges that CALFED has insufficient present authority by calling for the passage of "necessary legislation" and for establishing

"newer, revised governance structures." Comment: **This acknowledgement that there is insufficient authority at present for the actions proposed in the WQPP is not consistent with the schedule for implementation. CALFED clearly intends to seek *post hoc* authorization of activities that it is going to go forward with, hell bent for leather. Farm Bureau cannot and will not condone this.**

12.7.1, Water Quality Program (12-8); 12.7.2, CALFED Policy Group (12-9); 12.7.3, Water Quality Policy Team (12-9 to 12-10); 12.7.4, Bay-Delta Advisory Council (FACA Group) (12-10); 12.7.5, Delta Drinking Water Council (FACA Group) (12-10); 12.7.6, Ecosystem Water Quality Council (or modified Ecosystem Roundtable) (FACA Group) (12-10 to 12-12); 12.7.7, Water Quality Technical Group (12-12 to 12-14); 12.7.8, Expert Panels (12-14); 12.7.9, Implementing Agencies (12-15): Comment: **There is no need to cite in detail all of the memberships of these various councils, teams and groups. It is enough to note that statutory jurisdictional agencies are listed at the end of the roster of "governance," and that their role is, clearly, simply to be "responsible for direct implementation of water quality actions" devised by CALFED. We repeat our standing objection to this extra-legal assertion of authority for CALFED to direct the future of this state.**

12.8, Finance Strategy (12-15); 12.9 Adaptive Management Strategy (12-16): These last two subsections of the chapter provide little information. In essence, the strategy is to identify sources of money, and do adaptive management. Adaptive management is defined "as a science-directed process of implementation, assessment, monitoring, assessment and potential solutions.' There is no clarification as to how adaptive management is to be conducted under the general umbrella of the CALFED Water Quality Program, so as to be consistent with existing authorities and procedures. Comment: **Without clarification as to how adaptive management is to be conducted under the CALFED WQPP, our membership could lose whatever certainty they currently have in their approved management measures and permits. This ill-defined adaptive management strategy invites continual demands on the agricultural land manager without consideration of feasibility or scientific justification. Farm Bureau registers its unequivocal objection.**

Overall Comments to Chapter 12: **An interesting organizational chart is provided for the Water Quality Improvement Strategy, at Figure 15, page 12-11. A copy is attached. Although the Delta Drinking Water Council is shown as a rising sun on the left hand side of the organizational tree, there is no role identified for state agencies in the decision-making process. At the top of the tree is the "Programmatic Decision"; all "studies" and "actions" flow directly from this Decision. At the third level of the tree, under studies and actions, are listed participants like USEPA, Department of Health Services, and other acronyms that are not included in the glossary. Nowhere is there a role identified for the SWRCB or RWQCBs, let alone DPR, CDFA, and the other agencies that have a statutory mandate to address water quality, or other agricultural, issues. The organizational chart seems to confirm the suspicion raised in the preceding chapters of the WQPP, that CALFED intends to direct water quality regulation throughout the so-called "solution area," and simply to**

use existing statutory and regulatory processes as *post hoc* rationalizations for decisions made within its own tight little circle. FARM BUREAU OBJECTS.

4. Integrated Storage Investigation

In the State of California, reservoirs are essential to enable water suppliers to capture water when and where it is available for use in places when and where it is needed. In addition, conveyance systems are necessary to transport the water resources to various areas when and where they are needed. CALFED has made it clear in the DPEIS/EIR that it would like to remove dams wherever possible. There is no recognition of the difficulty of developing a viable water transfer market without providing water storage capabilities. Further, improved conveyance is essential to meet the CALFED water supply reliability, water quality, flood control, and fishery objectives. The improvements identified in Alternative 1 are inadequate to meet these objectives. Further refinement and optimization of Alternatives 2 and 3 would be necessary to determine if either of these alternatives could accomplish acceptable levels of improvement. Based on the information provided in the DPEIS/EIR, the Farm Bureau cannot detect any clear evaluation of the value of storage and conveyance in meeting the comprehensive needs of all of the stakeholders.

CALFED indicates the Integrated Storage Investigation (ISI) planning document will be forthcoming sometime in the future. CALFED states the ISI will provide the comprehensive framework for evaluation of storage implementation and management opportunities through Stage 1 and beyond. According to CALFED, the ISI will provide the analyses necessary for CALFED's determination of the proper mix of groundwater and surface storage facilities, and CALFED's Water Management Strategy will rely on these analyses as it identifies an appropriate combination of water management tools for attaining CALFED's water supply reliability goals and objectives. Interestingly, CALFED states the detailed environmental documentation, feasibility studies, permitting, and construction activities would be initiated "as appropriate". This statement is interesting because, well in advance of undertaking this environmental documentation, CALFED has reached the following conclusion:

> Decisions to construct groundwater and/or surface water storage will be predicated upon complying with all program linkages, including:
>
> - An assessment of groundwater storage, surface storage, reoperation of power facilities, and a fish barrier assessment as part of the integrated storage investigation.
>
> - Demonstrated progress in meeting the Program's water use efficiency, water reclamation, and water transfer program targets under the Water Management Strategy.
>
> - Implementation of groundwater monitoring and modeling programs.

- Compliance with all environmental review and permitting requirements.

Subject to the above conditions, new groundwater and/or surface water storage will be developed and constructed, together with aggressive implementation of water conservation, recycling, and a protected water transfer market, as appropriate to meet CALFED Program goals. (The CALFED Program Decision, Attachment B, at B-10.)

The Farm Bureau finds it passing strange that these same program linkages are not required of all of the other CALFED programs. In particular, given the broad reach of the ERPP and the Multi-species Conservation Strategy, why are such program linkages lacking for those plans? The Farm Bureau can only surmise from review of the DPEIS/EIR contrary to CALFED's charter, the fish and wildlife environmental needs have been elected above those of the other stakeholders, especially agriculture.

With respect to conveyance for export uses, CALFED states its basic strategy is to develop a through Delta conveyance alternative based on the existing Delta configuration with some modifications. The Delta consists of about 740,000 acres of land, of which about 500,000 are agricultural resources. These are rich farmlands interlaced with hundreds of miles of waterways that divide the Delta into islands. The Delta relies on about 1100 miles of levees for flood protection. Any changes in the Delta environment clearly will have a significant impact on agricultural resources. Despite this fact, Delta interests have found it difficult to have input in the development of CALFED's plans for the through Delta conveyance of water for export. The manner in which Delta conveyance is accomplished will affect in-Delta water quality, channel configurations, and flood flows that in turn will affect Delta farmers. Further, if the through Delta conveyance design fails to work, CALFED remains open to the possibility of a peripheral canal. Clearly, consultation between CALFED and the Delta farmers who are most directly affected by export conveyance decisions should take place at the outset in an amicable and receptive manner.

In the Revised Phase II Report issued in June 1999, CALFED provides a table listing reservoir sites retained for future evaluation and screening. It also provides a table listing current local interest in groundwater support by CALFED. (See Revised Phase II Report, at p. 91 and 89.) Otherwise, CALFED's consideration of aboveground and underground storage is vague and uninspired. All analyses is deferred to the fabled ISI. It is difficult for the Farm Bureau to believe that CALFED can give the impression of knowing more about the dynamic and often mysterious requirements of fisheries and wildlife habitat, but, even after four years and reams of available data, it has not garnered the technical expertise sufficient to advance their study of the required engineering for developing additional storage to meet growing water supply needs in California. Indeed, in its own words, CALFED states, "selection and construction of additional water storage facilities will follow other steps and may not occur for several years." (Implementation Plan, at p. 101.) The Farm Bureau strongly suspects that if storage were on an equal footing with ecosystem restoration, the ISI document would have been completed by now and would be part of the DPEIS/EIR available for public scrutiny and input.

The Farm Bureau appreciates CALFED's acknowledgement that cost allocations for new storage facilities should include the ecosystem. Further, to the extent water developed by new storage facilities is allocated to environmental restoration or enhancement and increased flood protection, we are pleased to see CALFED acknowledge are as public costs. Beyond this concept, however, the Farm Bureau cannot see how CALFED can develop a financing plan in advance of the development of the ISI. It is impossible to adequately evaluate a cost sharing approach to construction, operation and maintenance of storage facilities without first developing studies and plans to carry forward with such facilities.

CALFED has made it clear it does not intend to move forward with development of surface or groundwater storage before it has exhausted such "soft tools" as water use efficiency, water transfers, recycling and reclamation. These tools are examined in various appendices to the Main Document. Primarily, these soft tools are discussed in the Water Use Efficiency Program Plan and the Water Transfer Program Plan. The Farm Bureau is quite discouraged by CALFED's overall statement that development of new water supplies "may reduce incentives to invest in water conservation programs and other water management strategies." (Revised Phase II Report, at p. 86.)

CALFED estimates a range of new storage for study purposes of up to about 6 million acre-feet. Of that 6 million acre-feet, CALFED believes 3 million acre-feet would satisfy Sacramento River demands, and 2 million acre-feet would satisfy needs south of the Delta. CALFED makes no mention of the corollary benefits of flood control, decreased levee building and maintenance expenses, and other benefits that would accrue from well-chosen surface reservoir sites. It remains unclear why CALFED needs to study for another seven years to decide whether to satisfy what it currently acknowledges as a need for 5 million acre-feet of additional water to meet demands.

a. Water Use Efficiency Program Plan

The Farm Bureau recognizes the legal and moral requirement to use all water reasonably and beneficially. We recognize that as the population increases, agricultural use of water will be examined at least as critically as the use of water by urban areas. The Farm Bureau feels that CALFED's determination to meet environmental needs should carry with it the same test of reasonableness as all other uses. The use of land and water for ecosystem restoration and habitat development should generate fishery and wildlife benefits equal to the public's costs of creating this environment. Benefits should be quantifiable in a parallel manner to benefits assigned to agricultural and municipal users in calculating cost sharing and other considerations.

The Water Use Efficiency Plan suffers from the same flaws as all of the other CALFED programs. First, CALFED exceeds the scope of its proper role in deciding what are appropriate water use efficiency requirements. While CALFED does not appear to intend to regulate land use, cropping patterns, or efficiency standards, it provides no assurances that it will not pressure local agencies into using those tools. Experience has shown that the Environmental Protection Agency, one of the participating agencies in CALFED, can pressure a local water district to plug a farmer's tile drainage system if it dislikes what is happening to the receiving area. Moreover,

CALFED's statement that it will not require "incentive pricing" for water rings hollow when it suggests that if incentive based approaches do not accomplish CALFED goals, regulations could be required.

The Farm Bureau questions why the Urban Conservation Council is "approved" for certifying their own member agencies, but the counterpart for irrigation water, the Agricultural Water Management Council, is not given the same status. Further, CALFED states it will limit access to proposed storage facilities to those who "cooperate" to achieve CALFED objectives. Further, CALFED's proposed strategic plan for agricultural water use efficiency is incongruent with the already established voluntary effort of the owners and managers of at least 3.3 million acres of land who have already signed onto the Agricultural Water Management Council. CALFED proposes to implement this strategic plan through an aggressive program of efficient water management throughout the many different agricultural regions of the state. In particular, the Farm Bureau questions the inclusion of Imperial Valley in plans to remedy problems of the Bay-Delta Estuary. The DPEIS/EIR states, "Areas of the Imperial Valley have been included because potential conservation savings could be used to offset existing or future Delta demands of the South Coast Region." (Draft Water Use Efficiency Program Plan, at p. 3-2.) While the Farm Bureau believes that Colorado River Region water demands and supplies may certainly influence overall statewide water use, CALFED is clearly overstepping its bounds by including Imperial Valley in its solution area.

As with the other plans, CALFED fails to verify certain statements with substantiating documentation, fails to fully disclose the basis for data relied upon, and fails to satisfy the need for public scrutiny by providing a document with the level of detail sufficient to allow appropriate comments. For example, CALFED fails to justify its intent not to impose efficiency standards on instream use of water. This decision would exempt at least half of the state's water supply from the reasonable and beneficial use test. As a further example, indicates that agriculture can reduce its water use by up to 4.5 million acre-feet per year (Water Use Efficency Program Plan, at p. 4-55). Yet CALFED fails to address drainage concerns, salt buildup in the root zone, and the growth of salt sensitive crops. What CALFED is suggesting is the use of extreme methods and the use of technology that may either be unavailable at this time or economically infeasible to use in order to salvage water from ordinary methods of use not only in dry years but in all years. Recent developments in water transfers further suggest CALFED's stated assumption that conserved water will remain in the control of the supplier or water user for their discretionary use or reallocation may in fact prove a fallacy (Water Use Efficiency Program Plan, at p. 5-4). In the absence of additional storage, CALFED's recommended approach will clearly leave farmers and ranchers with no ability to address to harsher demands of the inevitable drought years. CALFED's approach will clearly promote widespread fallowing and land retirement, a result farmers and ranchers find repugnant and unacceptable.

Part and parcel of CALFED's Water Use Efficiency Program is the overall assumption that agricultural uses will never increase. Apparently, increased urbanization, conversion to habitat, land retirement, and the influence of water transfers will all conspire in CALFED's mind to cut agricultural resources by a considerable amount. All of these measures involve redirected impacts from urban and environmental users to agricultural users. CALFED's evaluation of

agricultural water use efficiency is inadequate since it does not appropriately recognize existing conservation efforts, existing high levels of efficiency, and the existing environment involving origins of salt in Bay-Delta water use and the particular management methods required to deal with this fact.

The Farm Bureau would certainly support CALFED financing of Agricultural Water Management Council and other ongoing efforts by agencies with appropriate jurisdiction to study the feasibility and implementation of additional water use efficiency measures. We note that CALFED indicates the state has spent $435 million since 1984 to replace leaky urban distribution systems. Total water saved is listed at 60,000 acre-feet per year. (Water Use Efficiency Program Plan, at p. 5-21). That represents a capital cost of about $7,250 per acre-foot. The Farm Bureau questions whether this is a better use of financial resources than what could be invested in construction of additional reservoirs to develop new water supplies.

b. Water Transfer Program Plan

In the Water Transfer Program Plan, CALFED once again squanders the opportunity to facilitate coordination and collaboration among existing agencies with jurisdiction, instead proposing yet another layer of bureaucracy. Specifically, the DPEIS/EIR states, "CALFED would recommend state legislation to create a non-regulatory California Water Transfers Information Clearinghouse. The Clearinghouse would facilitate or perform some of the functions described below and would aid in resolving many of the economic, environmental and resource protection issues" discussed earlier in the DPEIS/EIR. (Water Transfer Program Plan at p. 4-4.) CALFED then goes on to describe a number of services already performed by the State Water Resources Control Board, the U.S. Bureau of Reclamation, or the Department of Water Resources.

The Farm Bureau could support the concept of an information clearinghouse, which would appear to be an appropriate function for CALFED. If the clearinghouse became a water bank or market broker, which CALFED states it would not, such additional participation in a water transfer transaction likely would not aid in facilitating such transactions. CALFED must clearly define its informational and streamlining role. The suggestion that legislation is needed makes the Farm Bureau suspect CALFED is seeking a much larger role than that. In fact, the Farm Bureau strongly suspects this is the case when we read CALFED's statement on governance, providing for all CALFED participating agencies to be accountable to CALFED for the implementation of water transfer program recommendations. (Water Transfer Program Plan, at p. 5.3). With respect to groundwater management, a subject near and dear to farmers and ranchers because they are usually overlying landowners, the Farm Bureau agrees it makes sense for local programs to be consistent with CALFED objectives to the extent that those objectives facilitate the implementation of the existing legal requirements and regulatory framework. There is no need, however, for CALFED to add yet another layer of bureaucracy to a situation already fraught with uncertainty due to the number of agencies that might get involved in a proposed transfer.

CALFED promotes transfers as a marketing scheme likely to be used as a mechanism for augmenting existing sources of water to meet existing or projected unmet demands. What is not clearly stated, but is implied, is CALFED's prejudice towards a market as opposed to developing new storage opportunities. Glaringly absent from the discussions is the matter of how transferred water would be conveyed given the existing limitations on conveyance capacity.

Like many of the other documents that comprise the DPEIS/EIR, the Water Transfer Program Plan is frustratingly lacking in detail. Once again, CALFED's sparse approach to information defeats the ability to evaluate the proposed agency action. It is clear the full disclosure required by NEPA and CEQA to accommodate public scrutiny of government decision-making cannot be met by this document. CALFED is quick to list solution options, but the specificity is not there. This makes it difficult for the reader to draw any conclusions about the proposal or to identify any concerns the public may have with the program. For example, the critical issue of access to conveyance capacity to facilitate water transfers is studiously ignored. On the contrary, CALFED acknowledges that to forecast, much less guarantee, available conveyance capacity would be left to the clearinghouse. Also delayed for some future discussion is the question of who benefits from any potential increase in conveyance capacity that may result from CALFED program actions. As a further example, reservoir refill criteria and carriage water issues are listed in the document, but no solution or proposal for resolution is forthcoming. Both of these issues have significant implications for agricultural water users, as potential transferors and transferees. As a further example, wheeling charges are identified as an issue to be discussed by the legislature. CALFED appears to want to avoid this issue if at all possible, except to suggest that conveyance capacity and costs for instream transfers might be treated more favorably than those destined for consumptive uses.

CALFED simply lists solution areas and things for later resolution by various agencies and, at some point, stakeholders. The critical discussion of the cumulative impacts of a transfer on an area, basin, or groundwater aquifer is completely missing from the discussion. The environmental document prepared by CALFED should at least include this analysis as part of the background for evaluating issues that must be disclosed and further explored. Nothing in the Water Transfer Program Plan or in the Main Document describes the physical resources used for groundwater sufficient to give the reader any idea of the environment CALFED is evaluating and will affect by its proposed action.

Equally disturbing is CALFED's apparent decision to evaluate third party impacts of water transfers and conjunctive use programs as strictly an economic issue. Water use is part and parcel of the agricultural environment. The rural communities that depend on agricultural production to sustain their prosperity also are integral to the discussion of water transfers and conjunctive use programs. CALFED cannot adequately evaluate these issues without describing in detail what comprises these resources, presenting a profile of the communities dependent on these resources, and giving a description of the land overlying the groundwater resources.

Obviously, in the absence of the description of the affected environment at a level of detail that discloses what land, associated water resources, and both transferor and transferee communities are involved, CALFED cannot adequately describe a mitigation proposal for the

affected environments. The Farm Bureau cannot have confidence in CALFED's oft-repeated statement that certain changes proposed in the Preferred Program Alternative would not significantly affect groundwater resources, for example, when there is nothing in the document that indicates CALFED knows about and understands what those resources consist of and what users and affected communities depend on those resources.

C. CALFED Creates More Bureaucracy, Exceeds Its Original Geographic Scope, Does Not Provide Greater Coordination and Communication

In CALFED's own words, the geographic scope of the CALFED problem area consists of the legal Delta, Suisun Bay (extending to the Carquinez Strait), and the Suisun Marsh. The geographic scope of the CALFED solution area includes a much broader area that extends upstream and downstream of the Bay-Delta. (Executive Summary at p. ES-5.) What is frightening about this statement is the fact that the Farm Bureau has seen at least three different versions of CALFED's so-called solution area map. The solution area keeps growing to the point where it encompasses pretty much the entire state of California with the possible exception of the Trinity River watershed. Beyond the geographic overreaching of CALFED's jurisdiction lies the programmatic overreaching. Some of these issues we have described in the discussion above. Two areas where this programmatic overreaching by CALFED is particularly evident are in the Levee System Integrity Program Plan and the Watershed Program Plan.

1. Levee System Integrity Program Plan

CALFED describes its "jurisdiction" over levee system integrity in the Delta as follows:

> The Long-Term Levee Protection Plan outlines a long-term strategy to reduce the risk to land use and associated economic activities, water supply, infrastructure, and ecosystem from catastrophic breaching of Delta levees. (Long-Term Levee Protection Plan at p. ES-1.)

In addition, the Levee Program aims to integrate ecosystem restoration and Delta conveyance actions with levee improvement activities. The DPEIS/EIR then goes on to describe the various existing jurisdictions of the State Reclamation Board, the Department of Water Resources, the Army Corps of Engineers, the Department of Fish and Game, and local agencies such as Reclamation Districts. (Long-Term Levee Protection Plan, ch. 5.) What remains unclear in the Levee Program discussion is what role CALFED should play beyond funding and facilitating communication among the agencies already involved in this complex flood control process. CALFED proposes to insinuate itself into the decision-making process, however, by linking Delta Levee System Integrity to other CALFED programs, such as ecosystem restoration and the Comprehensive Monitoring, Assessment, and Research

Program. The Farm Bureau believes CALFED should limit its role in the Levee Program.

Levee maintenance is expensive and it is often unclear who should pay and how much they should pay. CALFED proposes in the draft a formula for cost sharing. CALFED also estimates costs for upgrading all levees during the next 20 to 30 years at $1.5 billion. (Implementation Plan at p 112.) CALFED proposes to spend $264 million of this amount during the first seven years. The Farm Bureau has no quarrel with CALFED's proposed role to act as a funding source and to facilitate streamlined funding of levee system integrity. What complicates CALFED's role is the habitat restoration focus of the currently proposed participation. Bare levees are much easier to inspect than levees with vegetation, even when that vegetation is providing habitat for various species. CALFED admits levee maintenance activities sometime conflict with management of terrestrial and aquatic habitat resources. While clearly acknowledging these and other conflicts between maintaining stable levees for flood protection and, ultimately, public health and safety, and pursuing habitat restoration goals, CALFED presses on with a disingenuous statement like, "The value of riparian habitat as a critical resource for many fish and wildlife species must be respected." (See Levee Program at p. 4-1). Again, CALFED should focus its efforts on streamlining conflict resolution among agencies with jurisdiction to resolve issues such as habitat restoration versus flood siting capacity and maximum stability to prevent flood damage and seepage. Ideally, CALFED should focus on funding, rather than seeking a new role that adds more bureaucracy to a situation that is already complex.

If the Levee Program Coordination Group proposed by CALFED actually functions to coordinate issues and funding among the agencies with existing jurisdiction, this would not be objectionable. But CALFED charges this group with coordinating Levee Program actions with all other CALFED actions. This "coordination" could result in additional bureaucracy and even less timely action to provide the primary functions of levees, that is, flood protection.

Levee work in the Delta will affect agricultural resources in that area to a great extent. In Table 3 of the Levee Program, CALFED lists 123 locations needing levee work and the number of miles of levee work to be provided. What it does not show is the acreage protected by these levee miles. This data would allow the reader to better assess whether the work being done is conducive to flood protection or is otherwise undertaken for habitat purposes. A description of the acreage affected would further allow the reader to assess likely third party impacts, such as seepage and salt intrusion through the restoration of land to tidal action. CALFED must disclose this information so that appropriate public scrutiny of its proposed action may take place.

Additionally, in Table 14 of the Levee Program, CALFED proposes the composition and roles of the Levee Program Coordination Group. The list would include a large number of actors who are not currently involved with aspects of levee system improvements. It is difficult for the Farm Bureau to imagine how this governance by committee will streamline and improve expeditious implementation of needed levee maintenance and repairs. (See Levee Program at pages 11-1, 11-2).

2. Watershed Program Plan

If implemented as currently drafted by CALFED, the proposed Watershed Program would create a state and federally driven watershed program with little guarantee of input from local communities and local land owners. To be successful, watershed processes must be locally driven by all stakeholders, including landowners. The goals CALFED has set forth in the Watershed Program Plan are too far-reaching and exceed its geographic scope as well as its original objectives for a Bay/Delta solution. The primary focus of the Watershed Program should be to provide funding and technical assistance to on-the-ground watershed activities. Conversely, the DPEIS/EIS slights on-the-ground implementation and instead discusses nebulous elements such as coordination and assistance; adaptive management and monitoring; education and outreach; integration with other CALFED programs; and watershed processes and relationships. The DPEIS/EIR fails to provide data on what type of on-the-ground projects would qualify for funding or how projects will be evaluated for funding. This helpful information is only suggested by CALFED's theory that assistance will be provided by "established principles." The DPEIS/EIR fails to identify the established principles that will be used in the evaluation process. Absent more specific information, it is impossible for the public to scrutinize the adequacy of CALFED's proposed action. Once again, CALFED fails to provide full disclosure of its actions and overreaches its jurisdiction.

CALFED's charter is to facilitate coordination and cooperation among state and federal agencies, not to dictate watershed programs to local governments across the State of California. CALFED fails to grasp this reality. For example, the Implementation Strategy for the Watershed Program does not identify or relate how implementation of this portion of the CALFED program will help to achieve identified CALFED objectives. Instead of identifying specific actions that help to achieve CALFED's goals, the program document lists desired outcomes that are, for the most part, unrelated to CALFED's objectives. For example, to improve coordination and assistance, the Watershed Program anticipates making decisions relating to describing a watershed group, creating a list of agencies, and watershed groups and other entities that are likely to help achieve CALFED's goals, composing a list of entities and individuals eligible for doing on-the-ground watershed management, and recommending legislative and legal changes necessary to promote involvement in watershed improvement and restoration. These actions are major policy decisions that are outside the scope of CALFED's jurisdiction. CALFED was never intended to become a super-watershed agency that controls watershed processes and decisions far beyond the reach of a comprehensive Bay/Delta solution.

Local programs need to start from the lowest grassroots level, not be coordinated or developed by a state and federal governmental entity. Organizing local watershed groups is a function that should be left to the true stakeholders, such as landowners and local volunteer community groups. Otherwise, CALFED simply expands its role as a funding source for consultants instead of a funding source for solving real water quality problems.

A significant portion of land within watersheds, both public and private, are productively used for agriculture. The most effective way to assure sound management of these lands is to preserve agricultural viability, which will allow landowners to voluntarily pursue activities on

their land to improve water supply reliability and water quality. Conversely, the easiest way to assure failure is to undermine agricultural viability, which in turn will mean little or no effort will be undertaken by landowners. The Farm Bureau's biggest concern with CALFED's involvement in watershed programs is its tendency to overreach its boundaries. Experience has shown that water management programs tend to wander into other areas, such as ecosystem restoration, but do not achieve the goal of the program. Usually, this occurs in the form of land use prescriptions that are punitive in nature and have no positive benefits. It is important that CALFED keep its focus on the long-term goal, to maintain water quality, which will in turn help ecosystem quality within the CALFED program area. If CALFED wants to be helpful in this regard, it should focus on incentives for landowners to maintain significant efforts to improve management of agricultural land in areas near waterways. Additional regulatory burdens will only stifle the significant efforts currently under way.

The Farm Bureau agrees that ecosystem quality is a goal legitimately pursued within the CALFED problem area and it can best be accomplished by improved water quality. Ecosystem quality is not a goal in the solution areas where watershed management will occur primarily. Wetlands restoration and riparian corridors within the solution area are not within CALFED's purview and should not be a part of the Watershed Program. CALFED should limit its role to coordination of the numerous regulatory processes and serve as a clearinghouse to assure there are clear lines of communication among the respective agencies that do have authority over water quality and which are operating partly under the CALFED umbrella.

CALFED's other programs, such as Water Transfers and the Integrated Storage Investigation, need to reflect a commitment to good watershed management by assuring water will be available within the watershed into the future. Both riparian surface water rights and groundwater rights, which are part and parcel of the land, and make up a significant component of the watershed, require this protection. CALFED clearly has no jurisdiction over water rights, but its programs, as proposed, will significantly affect water rights and watershed of origin claims to the use of water. As proposed in the Preferred Program Alternative, with the existing holes in the data available to evaluate CALFED's real plans, the Farm Bureau can only suspect that the programs may be improperly implemented. Improper implementation will adversely affect the water rights of landowners and work at cross-purposes with the goals of good watershed management.

In particular, the failure to expeditiously pursue storage investigations as part of the DPEIS/EIR puts CALFED behind the curve in evaluating the tremendous opportunities to conserve significant flows that would otherwise end up in the ocean. Conservation of flows through storage will not only protect the watershed and the delta from the perils of flooding, but also will conserve this water for other times, particularly during dry years, when cities, farms and fish need the water. Conservation of ocean outflow is one way the local areas can exercise their watershed of origin, area of origin and county of origin rights to this water and, therefore, preserve it for the watersheds of origin. This conservation measure would further facilitate a healthy water transfers program by insuring water availability when needed in the more constrained export areas.

3. CALFED Monitoring and Implementation Plans

a. Comprehensive Monitoring, Assessment and Research Program (CMARP)

CALFED states the purpose of CMARP is to provide facts and scientific interpretations necessary for the CALFED program to be fully implemented and for the public to judge the program's success. What the program actually presents is a constantly moving target. The length and detail of the report suggests that CALFED fully intends to violate its fundamental underlying purpose, that is, that all stakeholders move forward and improve together. It is clear from CMARP that species preservation and environmental enhancement, not water supply, water quality or levee restoration, is the true emphasis of CALFED's overall program and will be its focus for the next thirty years.

The CMARP is an essential part of CALFED's program because, as CALFED describes it, the information generated from monitoring, assessment, and research will be used to (1) assess the effectiveness of existing actions, (2) guide additional research, and (3) modify the actions of each of the program elements in order to improve the program's ability to meet its goals and objectives. The so called CALFED Common Programs include the Long-term Levee Protection Plan, Water Quality Program, Ecosystem Restoration Program, Water Use Efficiency, Water Transfer Policy, and Watershed Management Coordination. Separate from the Common Programs are the so called Variable Programs, which include Storage and Conveyance. CMARP is listed as an interagency program. Six of these CALFED common programs are already in varying stage of development and implementation, although the goals and objectives for all programs clearly are in a state of flux. The biggest flaw Farm Bureau finds in the CMARP concept is the frequent areas of overlap between CALFED's proposed monitoring and research activities and those already underway by independent agencies with specific jurisdiction. Rather than view this overlaps as unnecessary duplication, CALFED treats these areas of overlaps as "opportunities" for it to collaborate with existing programs. It would be a better use of scarce resources, both financial and scientific, for CALFED to support ongoing efforts rather than try to create its own new layer of research and monitoring.

To make matters worse, CALFED's review of the institutional structure required to implement CMARP concludes this issue cannot be resolved at this time. Rather, it appears to be assumed that some CALFED sanctioned body to which the CMARP will report and from which it will receive direction and funding authorization will be created by somebody. The principal function of CMARP apparently will be to manage the direction of the monitoring, assessment and research program to provide information to this unknown decision-making body to answer short term questions before proceeding with staged decision-making processes and measuring long-term conditions in the Delta.

CMARP is proposed as a body consisting of a Science Review Board, a Chief Scientist, a Core Technical Staff, and a Science Coordination Team. CALFED justifies the position of Chief Scientist under the theory that "scientific leadership is key to the success of CMARP and is more important than any other aspect of the organizational structure set up to operate or govern the program." (See CMARP, at p. 122) CALFED theorizes that it will obtain high levels of

credibility and accountability for CMARP if there is a Chief Scientist position. This Chief Scientist would represent a central figure charged with making the program work and producing results. Interestingly, CALFED sets forth the qualifications for the Chief Scientist position. It includes someone with "(1) a breadth and depth of understanding of environmental and related sciences; (2) credibility and enthusiasm to inspire the confidence of all of the scientific personnel working in CMARP; (3) the ability to identify and draw on the expertise of scientists from around the country as well as those assisting locally in peer review and external review processes; (4) in possession of extraordinary communication skills;" (5) the ability to "be able to simultaneously speak the truth and maintain the trust and confidence of all of the stakeholders," and (6) the ability to "be at least a bit of an iconoclast, and be willing to challenge the paradigms that influence our current understanding of the Bay-Delta system." (See CMARP at pp. 122-123.)

The Chief Scientist will report to the head of the agency or organization in which the position resides as well as directly to the CALFED decision-making body. CALFED at least takes time to note that this proposed organization should be one that enhances rather than competes with existing programs. (See CMARP at p. 132). One wonders how this could happen given CALFED's current bias towards creating an entire new system rather than facilitating collaboration and communication among existing agencies. Prior to CALFED's Record of Decision, there is supposed to be a plan developed for CMARP as part of the organizational structure needed to implement the entire CALFED program. As usual, however, CALFED does not present a proposed implementation structure for the public to review and comment on during the existing public review process.

The speculative nature of the entire CMARP can be seen in CALFED's comments that it is "committed to a process of adaptive management which will involve experiments. CMARP will work to facilitate communication between researchers and decision makers to identify what adaptive management can be effectively applied and to design experiments that will yield as much information as possible without compromising other management issues or causing undue risk to species of concern." (See CMARP, at p. 107.)

CMARP is an added layer of bureaucracy and a resource drain. The Adaptive Management Program proposed by CALFED requires a significant investment in monitoring and research activities. There are thirty CMARP work teams who have developed conceptual models and monitoring research recommendations based on the information needs of the eight CALFED programs. They have recommended 640 monitoring elements and 490 research topics. More than $33 million already has been devoted to this program. The bulk of the money has been focused on ecosystem restoration programs and water quality and monitoring programs in the San Francisco Bay. Other important programs are given short shrift. For example, only two pages of the report, pages 71 and 72, are devoted to storage and conveyance. CALFED states, "unlike the other programs discussed here, storage and conveyance is not a common program of CALFED." Further, "whereas the common programs are included in all CALFED solution alternatives, storage may or may not be included in the alternative." These are not optimistic statements for those stakeholders looking for an increased water supply.

Even more discouraging is CALFED's treatment of other issues. For example, water transfers are defined as "a tool to take an identified supply of 'extra' water, and convey that 'extra' water to an area where there is presently a shortage of water for beneficial uses." (See CMARP at p. 73.) This suggests that in CALFED's view, extra water is really someone else's water which is about to be reallocated somewhere else. In a further example, with respect to CALFED's grandiose plans for groundwater management, it admits that it is "impossible to manage groundwater resources to the same degree as surface water." (See CMARP, at p. 75). Ignoring this fact, CALFED still appears prepared to focus on groundwater management as the chief "new" water supply source in lieu of developing more traditional new surface water resources. CALFED further admits in the document that what it refers to as "fallowing transfers" may result in low agricultural production in the source area and such transfers may "impact local employment of farm workers and others close to it." (Id.) Further, CALFED blithely suggests that groundwater transfers may lower groundwater levels, lower groundwater quality and create higher pumping costs for other local groundwater users. In fact, CALFED admits that impacted groundwater users may lose the use of existing wells. (See CMARP at p. 76.)

Continuing on the subject of CALFED empire-building, we find proposals in CMARP to address so-called gaps in irrigation efficiency and groundwater use. CALFED goes on to suggest research priorities that include development of a complete and improved set of crop co-efficients for all 250 California crops, determination of the feasibility of obtaining distribution uniformities greater than 80% for redesigned and manufactured irrigation equipment, an evaluation of improved economic practices which might increase yields while reducing resource inputs, and development of new crop varieties. The Farm Bureau does not believe farmers need CALFED for these tasks and we certainly do not believe this is what the participants had in mind when the Framework Agreement and the Bay-Delta Accord were created. It appears CALFED plans to become a civil engineer, a university extension agent, and perhaps a plant hybridizer. CALFED does not even spare the urban users, proposing "annual landscape surveys of all irrigated landscape acreage within agencies having more than 3,000 connections." (*See* CMARP, at p. 79.) The manpower requirement to comply with such a proposal would be staggering. It is difficult to take CALFED seriously when you look at its ideas and the incredible intrusiveness of most if its proposals. Again, CALFED must return its original mission. The last thing water users in California need is another layer of bureaucracy.

b. Implementation Plan

CALFED already has become a bottomless money pit with layer upon layer of committees, discussion groups, workgroups, and paper. It is largely duplicative of what has already been done outside the program. While CALFED pays lip service to building on studies already done, it is difficult to find the connective tissue that would assure us this is the case.

Issues of Concern:

1. **The Isolated Facility.**

CALFED has kept everyone waiting for more than four years for the selection of a Preferred Program Alternative. That choice has now been made with an enhanced through Delta conveyance system. Yet the isolated facility still remains a possibility. (Implementation Plan (IP at p. 23.) In other words, CALFED is still a little bit pregnant on this issue.

The test as to whether to proceed with an isolated facility in the future turns on public health protection. (IP at pp. 23 and 106.) CALFED has selected the most compelling basis on which to determine at some point in the future whether an isolated conveyance facility may be necessary. Most Californians, per CALFED's reasoning, probably could be convinced that the facility is needed in order to guarantee public health. The Implementation Plan states, "the Preferred Program Alternative includes a process for determining the conditions under which any future additional conveyance facility or water management actions would be taken." (IP at p. 106.) This process is intended to include, "an evaluation of whether water supplies can provide a level of public health protection" and an evaluation based on reports from an independent panel of experts as to CALFED's progress towards measurable water quality goals and its "progress toward ecosystem restoration objectives, with particular emphasis on fisheries recovery." (IP at p. 106.) In the Farm Bureau's analysis of these statements, it appears CALFED is essentially an environmental program with the secondary goal of shipping water diverted north of the Delta to water users south of the Delta.

2. Governance.

CALFED states it will develop, prior to the Record of Decision, a proposal for a governance and decision-making structure for implementation of the Preferred Program Alternative. (IP at p. 41.) Apparently, CALFED does not want its proposal to be subject to NEPA and CEQA's public disclosure and review requirements prior to the final public comment period. Further, CALFED suggests putting the ultimate long-term governance program in place will take "some time" because of the "time needed to enact legislation required to make changes to existing laws and authorities." (IP at p. 41.) Given CALFED's penchant for endless process over substance, the Farm Bureau believes we are likely to have frozen in place for 30 years the current "interim governance structure." That structure could not handle, to anyone's satisfaction, a concentration of Delta smelt at the state and federal pumps during the height of the irrigation season. Until the Legislature acts, CALFED proposes that there be a "continuation of essentially the current structure" for the "planning phase of the program but adapted to support the implementation phase." (IP at p. 41.) This is unacceptable.

CALFED's salubrious comment that this interim structure will be in place only as long as it takes to establish a long-term structure is of little solace when it cannot, at this time, propose a long-term governance structure for Water Use Efficiency (IP at p. 75.), Conveyance (IP at p. 80.), Ecosystem Restoration implementation (IP at p. 58.), or the Environmental Water Account (IP at p. 82.). For Storage, CALFED suggests governance will only be built around specific projects. (IP at p. 79.) Until there is a specific project, there will be no governance plan.

In fact, CALFED in its Implementation Plan later suggests that, at best, it may take "several years" (IP at p. 46.) for the Legislature to adopt CALFED's recommendations for the

reorganization of existing authorities and structures governing how business will be conducted in California with CALFED on the scene. Meanwhile, it is cold comfort to know CALFED's interim structure will remain in place.

It is particularly noteworthy that there is no proposal for long-term governance of the conveyance element at this time either. Is not conveyance the essence of the Preferred Program Alternative? This paucity of useful planning data is indicative of the underlying drift of CALFED after four years in the talking and planning phase. It has morphed from a water development/supply/ allocation/quality scheme to a largely environmental habitat program. Oddly enough, CALFED cannot even propose a long-term governance plan for either at this time. Why should the public trust that CALFED's track record during the past four years is good enough to ensure all will be well in due course if we just let this program play out?

CALFED presents three possible options for the overall long-term governance structure – one of which will be chosen by the time of the ROD:

1. Maintain existing policy group structure.
2. Formalize existing CALFED agency structure (JPA with a federal MOU) or,
3. New joint entity for program oversight. (IP at p. 48.)

3. Ecosystem Restoration Program (ERP)

CALFED states the goal of its ERP "is to restore and mimic ecological processes and to increase and improve aquatic and terrestrial habitats to support stable, self-sustaining populations of diverse and variable species." (IP at p. 57.)

The Farm Bureau wonders whether it is realistic to seek to return to what was once found in our natural environment when it now must be shared by California's current 33 million strong human population and the 50 million strong human population projected for the year 2020. In view of human population pressures, a more responsible goal is to accept what we now find in our remaining natural environment and go forward from that point and attempt to preserve what is realistically achievable in the face of increasing demands placed upon that remaining natural environment.

As for a long-term ERP governance structure, CALFED gives us six options:

1. Existing agencies – no new entities.
2. Federal public incorporation.
3. Private non-profit.
4. Joint federal/state agency.
5. State entity with federal participation.
6. Federal entity with state participation. (IP at p. 61.)

The Governance Work Group prefers option 4. Yet, CALFED admits, "there are no known working models of such an agency." (IP at p. 65.) The closest parallel suggested is the

Tahoe Regional Planning Agency which is "based on an interstate compact between Nevada and California and federal authorization."

If form follows function, CALFED might have an easier time developing a governance structure if its goals were focused as contemplated in the Framework Agreement and the Bay-Delta Accord and reinforced in SB 900. More bureaucracy is the last thing stakeholders need.

4. Environmental Water Account (EWA)

The implementation plan discusses the EWA concept beginning on page 80. CALFED refers to what it intends to have deposited in the EWA account as its "assets" obtained in part from the water supply of "new facilities." The implementation plan is quite sketchy on just how these "new facilities" are realistically going to come into being. The account is intended to insure listed species "be recovered- under the CALFED Program" without impacting the program's objectives for water supply and quality. With California already in a water deficient configuration and CALFED largely building a water supply for the future on conservation, reallocation and deprivation. Thus, maintaining its "other program objectives" while keeping the EWA on the plus side of the ledger is unrealistic. CALFED should consider an agricultural water account to place these environmental resources on equal footing when it comes to acquiring "assets" or resources for mitigation of adverse impacts.

5. The Chief Scientist

One of the more disturbing proposals to come out of CALFED's evolutionary move to an almost exclusive environment-enhancing program is the Chief Scientist, a Czar like person to preside over the ERP during both the interim and long-term governance structure of CMARP. The Chief Scientist and his or her role and that of the Science Review Board and the Science Coordinating Team are discussed beginning on page 86.

CALFED maintains scientific leadership is the key to the success of CMARP and is "more important than any other aspect of the organizational structure set up to operate or govern the program" a Chief Scientist is required to "ensure high levels of credibility and accountability." CALFED proposes this Chief Scientist will report directly to the CALFED Executive Director. He or she would assemble and direct a Core Technical Staff. The Chief Scientist, with the advice of a personally selected staff, would be responsible for the overall direction and quality of the program. The Farm Bureau finds it disturbing that the Implementation Plan is silent as to who would be responsible for the appointment of this Chief Scientist. The appointing authority could make a world of difference in the attitude and leadership skills of this individual.

6. The Diversion Fee

The Implementation Plan contains a detailed discussion of a possible "broad based Bay-Delta system diversion fee" as a method of financing many aspects of the program. (See IP at

pp. 91, 138, 145, 151 and 153.) The DPEIS/EIR states Farm Bureau has been a supporter of such a fee, which would apply to all diverters, in the past.[16] Arguably, this fee would most significantly impact agriculture since its use of the water resource requires that it be diverted from its source for use elsewhere. The impact of this fee, which CALFED suggests would be used to finance "programs or actions with broad-based public benefits, such as the ecosystem restoration program" (IP at p. 91.) will almost exclusively be borne by the agricultural sector and a few large urban diverters. The environmental community, which CALFED seems to equate with the public at large, escapes largely unscathed (unless CALFED plans to impose a fee for diversions to managed wetlands). This conclusion is supported by Table 5.5 on page 152 and Table 5.6 on page 155. The Implementation Plan makes it clear that the proceeds from this diversion fee will not be used for storage projects – "no consideration is being given to use a new broad-based diversion fee for the construction of major new surface storage projects...where private cost-sharing has been the norm." (IP at p. 154.)

7. The Conditions Precedent for CALFED to Consider New Storage Projects

CALFED's approach to increasing storage found on page 101 of the Implementation Plan is interesting. CALFED continues to be unwilling to discuss groundwater storage and surface storage as separate concepts. They always appear coupled and this continues in the Implementation Plan discussion. CALFED states emphatically that consideration of water storage in the future will be "predicated on complying with all Program linkages;" more specifically, as follows:

1. An assessment of groundwater storage. (arguably an environmental issue)
2. An assessment of re-operation of power facilities. (an environmental issue.)
3. As assessment of fish barriers. (an environmental issue.)
4. Demonstrated progress in meeting the Program's water use efficiency target. (an environmental issue.)
5. Demonstrated progress in meeting the Program's water reclamation target. (an environmental issue.)
6. Demonstrated progress in meeting the Program's water transfer program targets. (an environmental issue.)
7. Implementation of groundwater monitoring and modeling programs. (an environmental issue.)
8. Compliance with all environmental review and permitting requirements. (an environmental issue.)

In the middle of all of the above, as a program linkage, one finds assessment of surface storage. (an agricultural and urban water supply issue.)

Following this listing of the linkages that must first be satisfied before storage projects may be considered, the reader is told that in any construction program CALFED must also

[16] The Farm Bureau has supported a "benefits based" approach over a punitive approach, but objects to any additional costs to replace water taken for or dedicated to environmental uses/protection, *see* Ag Water Caucus White Paper at p. 16.)

consider "aggressive" water conservation, recycling and water transfers as a means of meeting Program goals. Yes, CALFED will attempt to "identify acceptable projects", but only if the foregoing Program linkages and conditions are satisfied.

If it has not been clear before that the prospects are nil for new surface water supplies as part of the CALFED Program, it is now. None of the 6.25 million acre-feet appearing on the Preferred Alternative map is likely to ever materialize given the environmental gauntlet which CALFED has decreed must be traversed before any new storage prospects will be seriously considered.

8. Paying for New Storage

In discussing the issue of who should pay for any future new storage facilities ("linked to the beneficiaries, particularly where such groups can be easily identified, as in the case of water supply" [p. 104] – guess who that might be?), the implementation plan asks the question "how should the Program address the concerns raised by agricultural water users who have indicated an unwillingness or inability to pay the high cost of new water supplies?" (Ip. at p. 105.) In response, CALFED suggests a cross-subsidy between beneficiaries might be considered.

In addressing this question, it might be appropriate to analyze the long-term federal cheap food policy existing in the United States. This may be the basis for the inability of agriculture to pay the cost of new water supplies. If a cheap food policy is a factor, how then should the cost of those new water supplies be allocated when agriculture's inability to pay the high cost is attributable to something over which it has no control?

9. Water Sources Not Addressed

When California looks at its water future, the subject of desalinization is almost never discussed. It may be mentioned, but then is dismissed with the wave of the hand as too expensive, is need of a technology breakthrough, etc. Yet, the entire western border of the state faces the Pacific Ocean. Moving a fresh water supply from that ocean to the interior valleys would be no great feat not to mention supplying the water needs of all the great population centers of the state which hug our coastline as the water moves inland.

The Farm Bureau considers it a travesty that CALFED proposes spending billions to restore an ecosystem and will not devote a dime to even studying desalinization. The word is mentioned once, and not in that context, on page 120 of the Implementation Plan.
The ocean as a source of fresh water would put to bed any and all concerns about CALFED's goals of restoring the environment through its reallocation of fresh water already committed elsewhere. CALFED's architects are missing a great opportunity. Devoting millions to find a way to economically convert large quantities of salt water to fresh water would engender no greater public derision than what CALFED is going to hear from the citizens of this state in six weeks of public comment on a program which does not address that option but proposes to sell salt derived from drainage measures.

10. The Polluter Pays Issue

CALFED suggests that to have a sustainable Delta ecosystem "polluters must consider the external costs of their actions, including their ongoing effect on the ecosystem." (IP at p. 127.) CALFED believes its "beneficiaries pay principle" should not result in polluters not having to pay for "actions that they would be required to perform by law in the absence of CALFED." (Id.) These are noble sentiments, but how broad is the definition of "polluter?" Could it be expanded to include farmers and ranchers using pesticides and herbicides in accordance with regulations in place at the time of application, but because of cumulative impact of use or new science the applicators can now be classified as polluters? Will farmers and ranchers then be ordered to pay a disproportionate share of CALFED's water quality improvement program? CALFED's express concern with polluters' "ongoing effect on the ecosystem" can be handily turned against agricultural users by the environmental stakeholders. As the plan states on page 150, the goal is to "place fees on those that contribute to pollutant loading in the Delta." The fee would be "targeted to those pollutants that are most widely recognized as contributing to water quality concerns and ecosystem problems in the Delta." (IP at p. 150.)

Under the financing options for CALFED's water quality program one finds only two: 1. Cost will be shared between the public and direct beneficiaries or the polluter; and 2. Same as (1), but costs will be shared between the public and "appropriate" groups of beneficiaries or water users using increments to SWP or CVP water rates. (IP at p. 128.).

Where CALFED is going with this water pollution concept and how it views agricultural as a polluter is seen in the proposal to finance the water quality improvement program by assessing a "user fee on pesticide applications within the Central Valley." Using this approach, it will not be necessary to brand agriculture as a polluter, just so long as it pays the freight. (Ip at p. 128).

CONCLUSIONS

No environmental organization in its right mind would accept this document as adequate if it were prepared by a corporation like Lockheed or Aerojet. We see no reason to let the government off the hook. Governmental agencies should be required to abide by the laws they create. The requirements of NEPA and CEQA are clear with respect to producing an adequate Enivornmental Impact Statement/Environmental Impact Report. Based on our review of the DPEIS/EIR, the Farm Bureau recommends CALFED revise it in a number areas as described in great detail above and recirculate the revised DPEIS/EIR for additional public scrutiny and comment.

CALFED cannot be successful as long as so-called environmental improvements are made in the guise of protecting the Bay-Delta Estuary to the enormous detriment of farmers, farm workers, and their communities. Participation by farmers and ranchers is imperative to shape a future for Califorina's environment that includes them as beneficaries. After all, Californians invested in the CALFED process originally because we expected to find ways to

meet all water needs; not to ruin viable, economically successful agricluture so that others may thrive. Farm Bureau members left their homes, their farms, and their communities during the heaviest part of the harvest period to carry this message to CALFED during the public hearings process. What we want and CALFED is obligated to provide in the revisions to the DPEIS/EIR, and in practice, is to treat agricultural environmental resources as well as CALFED obviously treats fish and wildlife environmental resources.

Specifically, the Farm Bureau recommends CALFED prepare for public scrutiny and agency decision-making the following documents:

1. An agricultural resources mitigation protocol;

2. A cumulative impacts analysis protocol;

3. An assurances package (see Exhibit F), that can be incorporated into the Record of Decision for implementation of the Ecosystem Restoration Program Plan and the Multispecies Conservation Strategy in reference to their effects on agricultural resources.

The Farm Bureau appreciates this opportunity to provide comments on the DPEIS/EIR. As farmers and ranchers made clear during the public hearings process, and as should be obvious from our comments as stated above, the Farm Bureau is paying careful attention to what CALFED is doing. Thus far, we think CALFED is not even close to meeting the needs of all Californians in an equitable manner.

Sincerely,

Bill Pauli

WILLIAM C. PAULI
President

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Enclosures (Exhibits A – F)